

107

# SHOULD TAIWAN BE ADMITTED TO THE UNITED NATIONS?

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Y 4.F 76/1:T 13/12

Should Taiwan be Admitted to the Un... **HEARING**

BEFORE THE  
SUBCOMMITTEES ON  
INTERNATIONAL SECURITY, INTERNATIONAL  
ORGANIZATIONS AND HUMAN RIGHTS  
AND  
ASIA AND THE PACIFIC  
OF THE  
COMMITTEE ON FOREIGN AFFAIRS  
HOUSE OF REPRESENTATIVES  
ONE HUNDRED THIRD CONGRESS

SECOND SESSION

JULY 14, 1994

Printed for the use of the Committee on Foreign Affairs



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# SHOULD TAIWAN BE ADMITTED TO THE UNITED NATIONS?

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THURSDAY, JULY 14, 1994

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON FOREIGN AFFAIRS,  
SUBCOMMITTEE ON INTERNATIONAL SECURITY, INTERNATIONAL ORGANIZATIONS AND HUMAN RIGHTS, JOINT  
WITH THE SUBCOMMITTEE ON ASIA AND THE PACIFIC,  
*Washington, DC.*

The subcommittees met, pursuant to call, at 10 a.m. in room 2172, Rayburn House Office Building, Hon. Tom Lantos (chairman of the Subcommittee on International Security, International Organizations and Human Rights) presiding.

Mr. LANTOS. The Subcommittees on International Security, International Organizations and Human Rights, and Asia and the Pacific, are convening today to discuss the complex question of whether Taiwan should be admitted or readmitted to the United Nations.

As of August 1, 1993, 184 states were represented in the General Assembly, and I would guess that the names of some of them might be unfamiliar or perhaps even unknown to many. How many of us can immediately place Barbuda, Comoros, Vanautu, or Saint Vincent and the Grenadines on the map in terms of weight and importance in the international trading system, in terms of gross domestic product, in terms of technological prowess, and in terms of foreign exchange reserves?

I do not mean to denigrate these countries or to suggest that they do not belong in the United Nations; rather, I mean only to illustrate the degree to which the current U.N. membership reflects the world's political landscape. This is only fitting because U.N. membership is based on the principal of universality, and the organization is in fact enriched by the widest possible participation.

Indeed, even the Holy See has permanent observer status as do several international organizations, including, among others, the Commonwealth Secretariat, the Asian-African Legal Consultative Committee, and the Latin American Economic System. And the Palestine Liberation Organization was invited in 1974 to attend U.N. General Assembly sessions and international conferences.

But isn't it curious that a country of 21 million people that is both a model for emerging democracies and an economic powerhouse should be excluded from U.N. membership that includes such luminaries as Iran, Iraq, Sudan, Cuba, Libya, and North Korea? I speak, of course, of Taiwan, which as a result of an infa-

mous act of Chinese legerdemain, lost its seat at the U.N. in 1971 to the Peoples Republic of China.

Let me say at the outset I fully realize there is a debate among the citizens of Taiwan regarding whether the correct name of their country is the Republic of China on Taiwan or simply Taiwan. Our purpose today is not to get bogged down in internal partisan debate, but rather to address the very important pragmatic question of how we can promote Taiwan's participation in the entire international system in a manner that benefits both Taiwan and the international community. Today I will use the name Taiwan which is more familiar to the U.S. public.

The statistics are impressive: Taiwan's population is greater than that of three-quarters of the countries in the United Nations. Taiwan has the 25th highest per capita income in the world and the 20th largest Gross National Product. Only 19 countries on the face of this planet have a greater output than does Taiwan. And Taiwan, of course, boasts of the world's second largest holding of foreign currency reserves. In fact, the total foreign currency reserves of all of the countries of the former Soviet Union, including Russia, are but a small fraction of Taiwan's \$80 billion foreign exchange reserve. Taiwan has the 14th largest volume of global trade and ranks 7th in overseas investment.

So how can one explain the absence of this country, which has governed itself for more than 50 years in an increasingly democratic fashion, in an organization that includes so many other newly independent states that play an infinitely smaller role in the international system?

I am not even talking about the failed societies, so many, which still have United Nations memberships. Quite simply, this is one of the cruel relics of the cold war that has yet to be swept away. Although in the last 5 years we have witnessed the dismantlement of many of the tragic anomalies of that era, some old wounds still fester, such as Fidel Castro's vicious rule in Cuba, the tense stand-off on the Korean peninsula, and the PRC's claim on Taiwan, which casts a shadow over that country's otherwise bright future.

The resolution of Cuba and North Korea's difficulties unfortunately still await a future date, but Taiwan's ambiguous identity seems increasingly anachronistic in this day and age when former Soviet satellites, ranging from East Germany to Uzbekistan, have proudly assumed their seats in the U.N. and other international bodies.

Taiwan, however, is excluded from the U.N. because the People's Republic of China, one of the five permanent members of the Security Council and thus a possessor of the veto, is adamantly opposed to Taiwan's admission. The rest of the U.N. membership, including the United States, is unwilling to challenge the Chinese on this issue.

Taiwan's exclusion cannot be justified in terms of international law as Taiwan more than meets the traditional criteria of statehood. Nor would granting Taiwan U.N. representation in any way prejudice the ultimate resolution of Taiwan's status. The two Germanys reunified, although both had seats in the United Nations; and so could China and Taiwan at some future date if that were the wish of both nations. Thus, Taiwan's continued absence from

the U.N. can only be seen for what it is: a flagrant exercise in intimidation, the flexing of raw political muscle by an obstructionist power.

The rest of the world, most of which quietly acknowledges the validity of Taiwan's effort, will not offer concrete support because they fear losing the trade and investment opportunities present in the rapidly modernizing People's Republic of China, or they worry about losing PRC support for important regional or global initiatives such as the protection of intellectual property, nonproliferation of conventional and nuclear weapons, and reigning in rogue regimes like Iraq and North Korea.

While I do not wish to see the advancement of these important endeavors endangered, I think the greater risk stems from the international community's unwillingness to confront the PRC on an issue in which it is clearly in the wrong and acting against the interests and values of the international community. I also think the PRC will do whatever it wishes in those areas based on its own assessment of its own self-interest. The Chinese leadership seems to view concessions from the West more as a sign of weakness than a sign of flexibility. As evidence of this I would offer the recent MFN debacle. It cannot be said that the PRC has shown any greater willingness to play a constructive role in the international decision since the decision to renew MFN for China.

Finally, on a practical note, apart from its U.N. Security Council seat, the PRC plays a minor role in the U.N. It is not very active in the General Assembly or the specialized agencies, and its parsimony is legendary: in 1981, its total contribution to the United Nations amounted to \$7.8 million. In 1994, China will pay 0.77 percent of the U.N. regular budget, whereas Taiwan was paying 4 percent of the U.N. budget in 1971, when the General Assembly acted to strip it of its membership.

China has no moral right to exclude from the U.N. a country that has such extensive technical expertise, economic success, and financial support to offer. Moreover, there is a significant cost to the U.S. taxpayer as a result of Taiwan's exclusion from the United Nations.

Let us not forget that Taiwan's gross domestic product greatly surpasses that of many Western European countries, including Sweden and Switzerland. Because assessment rates for the U.N. regular budget and peacekeeping are derived from a painfully intricate formula, it is difficult to calculate Taiwan's fixed U.N. contributions. But it is obvious that as a country as prosperous as Taiwan could give enormous financial support to the U.N. and all of its specialized agencies. One should note that many of the specialized agencies receive much of their funding from voluntary contributions, and Taiwan has already established an impressive track record on development assistance through its International Economic Development and Cooperation Fund.

I am very pleased to welcome our distinguished panel of witnesses who will help us shed some light on this difficult subject. They are Ambassador James Lilley, U.S. Ambassador to the People's Republic of China during the Bush administration; the Honorable John Bolton, Assistant Secretary of State for International Organizations during the previous administration; Professor Hungdah

Chiu, School of Law, University of Maryland; Dr. James Seymour, Senior Research Scholar at Columbia University's East Asian Institute; and Lung-Chu Chen, Professor of Law at New York Law School.

Before turning to our distinguished witnesses, I am delighted to call on my good friend and colleague, the distinguished chairman of the Subcommittee on Asia and the Pacific, who is cochairing this event, Congressman Ackerman.

[The prepared statement of Mr. Lantos appears in the appendix.]

Mr. ACKERMAN. Thank you very much, Chairman Lantos. It is a pleasure to join our two subcommittees today for the purpose of studying this extremely important issue. I would like to commend you, Chairman Lantos, for your leadership in this area and to indicate for the record that it is always a pleasure and an honor to work and cooperate with you on so many issues of mutual concern.

Taiwan's future is inextricably linked to U.S. interests in Asia. Today the United States is Taiwan's principal foreign investor, and U.S. markets receive roughly 25 percent of Taiwan's exports. But we have far more than economic ties to Taiwan. Thousands of Chinese have come from Taiwan to live and study in the States, and many have stayed here, become citizens, and are extraordinarily successful.

I know this for a fact because I have a great many of these Chinese Americans in my district. Others have returned to Taiwan and now play crucial roles in government and industry there.

We also have thousands of Americans who visit Taiwan who live in Taiwan, and who have studied the Chinese language and customs of all of Asia from there. Taiwan's prosperity is in the enduring interest of our own nation.

Taiwan is unquestionably one of our most important partners in Asia, and there is no doubt in my mind that Taiwan can once again play an important role in the United Nations.

Many argue that Taiwan's participation in the United Nations will not simply benefit the United States but will benefit the entire international community as well. Others believe that pushing U.N. membership for Taiwan is too provocative and may be counterproductive for both our Nation and Taiwan.

We all know there are obstacles and complications to Taiwan's participation. We also know that our friends in the People's Republic of China would not be very happy about such a development, and that adding complications to the already complex state of Sino-U.S. relations might not be welcome by some, particularly some in our State Department.

Let me say that this member is acutely aware of just how important our relationship with the PRC is and that we must respect that relationship. But we must also face reality. And that reality is that Taiwan is an economic Goliath and the interrelationship and interdependency between the community of nations and Taiwan will only grow more important as time goes on.

Today we will focus on the concept of Taiwan's potential U.N. membership, the modality as well as the feasibility of such membership, and the risks of such an important step. This hearing is not intended to stake out a position on the name Taiwan may even-

tually wish to use should it be permitted to join the United Nations.

Such questions are best left to the people of Taiwan. To share their views on some of the issues I have just raised we have a well-distinguished panel of experts, and I look forward to their testimony.

[The prepared statement of Mr. Ackerman appears in the appendix.]

Mr. LANTOS. Thank you very much, Chairman Ackerman.

I am very pleased to call on the Ranking Republican member of the House Foreign Affairs Committee, the distinguished gentleman from New York, Mr. Gilman.

Mr. GILMAN. Thank you, Mr. Chairman. I want to thank the Ranking Minority members on the Subcommittees on International Security, International Organizations and Human Rights and Asia and the Pacific for holding this very important hearing today. As we know, Taiwan has a significant population, a population of 21 million, more than that of 130 members of the U.N.

But Taiwan is still not a member of the United Nations. Economically, Taiwan is the 14th largest trading nation in the entire world. Its Gross National Product, the world's 20th largest. Its annual per capita income exceeds \$10,000. It has the largest foreign exchange reserves worldwide, in the United States, \$80 billion. It is the U.S.'s sixth largest trading partner.

But with all its wealth, Taiwan is still not a member of the United Nations. With regard to democracy Taiwan has made great strides toward establishing a system of political pluralism for its people. Martial law was lifted in 1987, and all political prisoners have now been released. Despite these very significant gains, Taiwan is still not a member of the United Nations.

Our nation and the world community no longer can afford to continue this unusual relationship with Taiwan. Accordingly, I urge our colleagues to act swiftly on the resolutions before our committee so that the Congress can express its sentiment on this urgent issue.

I would also ask the chairman that an excerpt from an interview with Taiwan's President Lee Teng-hui be printed in full in the transcript of today's hearing.

Mr. LANTOS. Without objection.

Mr. GILMAN. Thank you, Mr. Chairman.

[The excerpt appears in the appendix.]

Mr. GILMAN. This article has come to my attention as an informative summary for some of the opinions regarding a seat for Taiwan in the United Nations.

Thank you, Mr. Chairman.

Mr. LANTOS. Thank you, Congressman Gilman. I am delighted to call on the distinguished chairman of the Subcommittee on the Western Hemisphere, whose leadership has far transcended the hemisphere in the field of foreign affairs, my good friend from New Jersey, Congressman Torricelli.

Mr. TORRICELLI. Thank you, Mr. Chairman, Mr. Ackerman. I would like to have my full statement entered in the record.

Mr. LANTOS. Without objection.

Mr. TORRICELLI. Mr. Chairman, the United States for many decades was author of a policy that proved to be without merit. We inflicted upon the United Nations an ideological and a political test for membership. The People's Republic of China was the primary victim of that misguided policy. As the years passed, the international community brought the United States to recognize this not only was an unjustifiable policy, but a counterproductive one. There were real and substantial bilateral and multilateral problems with the People's Republic of China, and they were best addressed and resolved within the membership of the international community and the institution of the United Nations.

Indeed, the world is a far different place, far more secure, with far better understanding, because of that change in U.S. Government policy that helped to bring about the admission of the People's Republic into the United Nations.

Now, through an irony of history, we find that we corrected that mistaken policy only to now have another victim: the people of Taiwan, through the promoter of the identical ideological and political test, the People's Republic of China.

Mr. Chairman, I have offered to the House, House Resolution 166, with the support of 65 members, Democrats and Republicans, including 10 members of this committee, which, simply stated, calls upon this government to join in the effort to admit the people of Taiwan into the United Nations.

For all the reasons and all the arguments that were made several decades ago to bring the Chinese people who live on the mainland into the U.N., those arguments today can be made for the people of Taiwan.

Taiwan's population is larger than those of most members of the United Nations. Its economy is larger than all but 20 members of the United Nations. It is one of the fastest growing and one of the most successful trading nations on earth.

Its foreign reserves are second on the globe. There is much Taiwan can offer. The real victims of this failure to include Taiwan in the international community are the developing nations. The nations would benefit more if it were a member and contributing its fair share to peacekeeping operations and to economic assistance.

The councils of the world will never be complete until we adopt as a philosophy of the United Nations that membership tests are not appropriate; that the purpose of the United Nations is to bring to one table all peoples to settle their differences at one time. How, indeed, can it be justified that Saddam Hussein, Qadhafi, and a host of lesser states and regimes can be heard at the United Nations, but the democratically elected government of Taiwan cannot?

This is a government today which has free assembly, the highest standards of free press, a democratically elected assembly, and yet we allow regimes who find themselves on the list of terrorist states around the globe to assemble in the United Nations and not this prosperous democratically elected, significantly populated state of Taiwan?

At some point we have to deal with this reality. It is better dealt with now. I recognize that this would cause some considerable consternation in Beijing. The admission of the PRC caused similar dis-

comfort in Washington at one time. We were wrong then. They are wrong now.

In time they will come to recognize it. The United States has always been unique in our foreign policy, in that we almost alone have responded to principal in what was right, stood with nations that were small against those that were large, those that were weak against those that were powerful.

Now is that time again. I would urge my colleagues who have not joined in this resolution to do so. I would urge the leadership of this committee to proceed in adoption of the resolution. I know we have it in our heart to respond to the Taiwanese Americans who are urging our leadership of this issue, particularly the Taiwanese Americans who reside in the great borough of Queens, who are waiting for this important hearing.

Mr. Ackerman, Mr. Lantos, I thank you for this opportunity and for holding this hearing.

[The prepared statement of Mr. Torricelli appears in the appendix.]

Mr. LANTOS. Thank you very much, Chairman Torricelli.

I am very pleased to call on my colleague from Indiana, Congressman Burton.

Mr. BURTON. Thank you, Mr. Chairman.

Mr. Chairman, I would like to commend you and the Chairman of the other subcommittee for holding this hearing today on this very important topic. Since I will not be able to stay for the entire meeting, I would like to make my opinion on Taiwan known in this brief opening statement.

The Republic of China was one of the founding members of the United Nations 1945. On January 1, 1979, the United States switched diplomatic recognition from the Republic of China on Taiwan to the People's Republic of China on mainland China. I opposed that move and I support 110 percent all efforts to return to the Republic of China on Taiwan to the United Nations.

Several resolutions have been introduced in the 103rd Congress which address the issue of whether Taiwan should be admitted to the United Nations. And while I have the highest regard for Representative Torricelli, I believe that the resolution introduced by Representative Gerald Solomon is a stronger resolution than the one we should be supporting.

Representative Solomon says in the resolve clause that the Republic of China on Taiwan deserves full participation, including a seat in the United Nations. In contrast, Representative Torricelli says in the resolve clause that the 21 million people on Taiwan should be represented in the United Nations.

While I support all efforts which seek to give the Republic of China on Taiwan a voice in the U.N., I believe that Representative Solomon's resolution is the stronger approach. The Solomon resolution specifically asks for a seat in the United Nations, which would also give Taiwan a vote. The Torricelli resolution calls only for representation. It does not ask for a seat.

By not specifically asking for a seat at the United Nations in the resolution, the House could mistakenly create the impression that it supports other types of representation at the U.N. for the Repub-

lic of China. Mr. Solomon cites the Republic of China in his resolution while Mr. Torricelli refers only to the people of Taiwan.

There is no reason not to admit the Republic of China on Taiwan to the U.N. under its official government name, the Republic of China. The Korea formula for U.N. participation should be noted here. Currently, South Korea is recognized in the U.N. as, "the Republic of Korea," while North Korea is recognized as, "the Democratic People's Republic of Korea." Both seek eventual reunification.

The Republic of China on Taiwan deserves equal treatment. In addition, by not referring to the government's proper name, we could mistakenly appear to be supporting those groups in Taiwan which advocate independence. Real support for independence in Taiwan is hard to accurately assess. Like other issues, support for independence probably goes up and down depending upon the current political climate in Taiwan.

Who knows what the people of Taiwan will want if the day ever comes when reunification with the mainland is a real possibility? We should not inadvertently get involved in this controversial issue. Our first priority should be to get the Republic of China a voting seat in the United Nations.

Furthermore, Communist China has on numerous occasions made known its absolute opposition to any initiatives toward independence on Taiwan, and it has said it will put down such moves with military force. While Communist China will probably oppose both resolutions, I believe there is a small chance that they will allow the Republic of China on Taiwan to rejoin the U.N. under, "the Korea formula."

I hope and urge our two subcommittees to come together and back the Solomon resolution or another one that specifically asks for a seat at the U.N. for the Republic of China.

Thank you, Mr. Chairman.

Mr. LANTOS. Thank you very much. I am very pleased to call on Congressman Brown.

Mr. BROWN. Thank you, Mr. Chairman. Just a short statement. For more than 44 years Taiwan has been an independent country. During these 44 years, the Communists in Beijing have not exercised any control over the Island of Taiwan, nor have the nationalists in Taipei exercised any control over China. The people of Taiwan are not Chinese. They are Taiwanese, for the most part. Only a minority of the 21 million people in Taiwan is Chinese, only about 3 million out of the 21 million.

They are the descendants of the 1348 soldiers that fled at the end of the Chinese civil war to Taiwan in the late 1940's. The remaining 17 to 18 million people are Taiwanese. Chairman Lantos has underscored the size, the significance, the economic prowess of Taiwan. I don't need to repeat that.

But the mere fact that the 21 million people of Taiwan are not represented in the U.N. and the fact that the voices of those 21 million people, Taiwanese and Chinese alike, can not be heard in the Chinese community, clearly goes against the principle of U.N. representation.

I join with the people of Taiwan, both the KMT and the Taiwanese and Taiwan. I join with the 65 other sponsors of the Torricelli



resolution and people all over this country in calling for the United States to support Taiwanese admission to the United Nations.

Mr. LANTOS. Thank you very much.

I am very pleased to call on the gentleman from California, my colleague, Congressman Rohrabacher.

Mr. ROHRABACHER. Thank you, Mr. Chairman.

It has been very disheartening for me and for other people who hold human rights as a major value to see what we have been doing in our relations with the people of China, whether those people live on the mainland or whether those Chinese people live in the Republic of China.

In fact, we have recently decoupled our whole trading policy with human rights, and to me, and I know that was true of you as well, Mr. Chairman, that was a very disheartening day for us to see that we had caved in totally to the Communist clique on the mainland and decoupled our trade policy with human rights considerations.

I think this same sort of what I would have to just say is cowardice has been reflected in American policy over the years. We have a government, a legitimate government, in the Republic of China. This is a government because it has gone to the people and it has received through free and fair elections the consent of the governed. That supposedly is the criterion that we use in determining a legitimate government. That is what our forefathers laid down. The consent of the governed. That is the basis of what freedom and democracy is supposed to be about.

Those people who have tried to shape their own destiny in the Republic of China have gone the extra mile to identify with the free peoples of the world and to link up with us in our value of human freedom and democracy.

Those 21 million people are governed by their own government. The people on the mainland are controlled by a clique of people who refuse, refuse, their own subjects those democratic rights.

Mr. Chairman, we should be focusing our efforts and our relations to try to have better relations with a legitimate government in Taiwan rather than currying favor with a clique of Communists who are not a government but instead hold power only by force on the mainland of China.

The Republic of China in recent years has emerged not only as a true democracy, which we should applaud, but also as a major economic force on the planet. The 21 million people on Taiwan buy twice as much from the United States as the hundreds of millions of people on the mainland buy from the United States. It makes both economic sense and political sense for us to reaffirm our ties with the Republic of China rather than the dictatorship on the mainland.

I will support Congressman Torricelli's resolution. I agree with Congressman Burton that it does not go far enough and that it is half-hearted. I do not understand why the United States does not boldly proclaim its ideals and boldly extend our hand to those people who have had the courage themselves to step forward and side with the cause of democracy.

In Cambodia, for example, I have been asking for over a year that Most-Favored-Nation status be granted to the Cambodian—to the people of Cambodia, who also have moved forward and had a

free election and are trying to establish a free society, as compared to Vietnam, where there has been no liberalization, no democratization whatsoever.

I don't believe that the U.S. foreign policy should be guided simply on the grounds of what our businessmen or how our businessmen can make money. That is no moral basis for any decisionmaking in terms of foreign policy.

We owe it to our own forefathers and mothers who struggled for democracy and freedom to make sure that we keep those values in mind when determining who we will have relationships with and what relations we will have with various countries. I believe that the Republic of China should be granted full membership or readmitted to a seat in full membership in the United Nations. And I will support Congressman Torricelli's amendment as a move and as a step in the right direction.

Mr. LANTOS. Thank you very much.

Congressman Gutierrez.

Mr. GUTIERREZ. Thank you, Mr. Chairman.

I would like to commend you, Chairman Lantos, Chairman Ackerman, for calling this important hearing today and I look forward to listening to the distinguished guests. If only the policies guiding foreign affairs were black and white litmus tests and guidelines to be met, rather than policies involving many shades of gray.

To me the admittance of Taiwan to the United Nations reflects those shades. It does not lend itself to a simple answer. I think my colleagues will agree that Taiwan meets the unofficial guidelines that govern admittance to the U.N., yet there are numerous factors and consequences to be considered before an endorsement of admittance is offered.

Historic ethnic and territorial considerations as well as economic and global security realities command attention.

In 1979, the United States broke formal diplomatic and military ties with Taiwan in favor of the People's Republic of China. Then we reestablished relations while stating our support for a peaceful resolution of the Taiwan issue between the Chinese themselves.

In another seeming reversal of policy, and to the distinct displeasure of the PRC, the Bush administration authorized the sale of 150 F-16 fighter jets and sent a cabinet level official to Taiwan for the first time since recognition.

Finally, our new administration has affirmed its position on the policy. Perhaps U.S.-Taiwan relations are due more thoughtful and thorough evaluation before we move to offer Taiwan our support.

The consequences of backing U.N. admission, as well as ethnic and historical claims, require full and comprehensive consideration. Again, Mr. Lantos and Mr. Ackerman, I applaud you for convening this hearing. I am eager to hear the testimony of our distinguished guests and the additional perspectives I am sure they will provide on this subject.

Mr. LANTOS. Thank you very much.

I am pleased to call on my friend from California, Congressman Martinez.

Mr. MARTINEZ. Thank you, Mr. Chairman. I will be very short. It is interesting to listen to reflexes of the members of the panel here on their recollection of history of China and the events that

led us to this present day situation, looking for the recognition of Taiwan as a member of the U.N. I agree with Mr. Burton and I have actually cosponsored both resolutions, the Torricelli resolution and Gerry Solomon's resolution.

Although I agree with Burton that Gerry Solomon's resolution is much stronger in that it requires a seat in the U.N. for Taiwan, and I would strongly support that idea, however, I am probably unique to this panel in that I was in China for almost 3 years during those years of the conflict with the Communists. And we were there in support of the nationalist Chinese in training their military teams for that resistance for the Communists.

I was also there in 1949 when we evacuated the nationalist Chinese to the Island of Formosa, which is now known as Taiwan, and the superimposition of the nationalist government to the Government of Taiwan, and the establishment of martial law, which then led them to not act like a democracy but more like a military dictatorship, in which no opposition parties were allowed to form, and when publishers published news of their relatives on the China mainland such as in the Olympics they were confiscated, the magazines, and destroyed, and the people were put in jail.

I don't see that as the perfect democracy that one of my colleague has alluded to about Taiwan, although those are problems they had to deal with because of the immediate crisis from the threat of national—of the Communist Chinese.

However, I think that—and I disagreed at the time with the taking away of recognition from Taiwan and giving it to Communist China. I felt we had been allies with Chiang Kai-shek over the years of World War II and supported them in their struggle with the Communist Chinese.

We obviously decided that as a strategy toward or against Russia, that a relationship with Communist China was a more important thing, and so we made that move. I disagreed with it then and I disagree with it even now today. But I think with the realities and situations as it is, we ought to move in every way we can to make sure Taiwan does get a seat in the U.N. They can be contributors. They are outside of declaring themselves an independent country, which there are a lot of different groups in Taiwan that would disagree with independence.

There are some that would agree with it. There are some that for different various reasons want one thing or the other. But if you really talk to the people, back deep in their hearts, even the people that have moved here from Taiwan, even the people from Hong Kong, Chinese are Chinese, wherever they are from, and they have a strong tie, one to another, and if you talk to these people they would really love to see the reunification of China.

That isn't a reality in the near future. The next reality would be a recognition of Taiwan in the U.N. Regardless of how the PRC would see it, I think we should do it. I think eventually they will come to realize it is a good thing for them.

I can't see much difference in the relationship with Taiwan eventually taking place as it has with Hong Kong. Hong Kong is going to be more or less autonomous and continue to operate under the government structure it has now. And it will still be a part of mainland China.

There are a lot of options and possibilities, and as time changes some of those things will become a reality. I, for one, would like to see a reunification of China. And the present government of the Chinese are less than 3 percent of the population. That is a very small percent of the population. As that population becomes more educated and knowledgeable about the things that freedom will bring, I think that government will change and evolve and eventually Taiwan and mainland China will become reunified. For that reason, I support that resolution.

Mr. LANTOS. Thank you very much.

I am very pleased to call on the gentleman from Florida, Congressman Deutsch.

Mr. DEUTSCH. Thank you, Mr. Chairman, and Chairman Ackerman for your hospitality in having me participate in this hearing. I have an extensive opening statement which I would like to submit for the record and really just highlight several parts.

Mr. LANTOS. Without objection.

Mr. DEUTSCH. Taiwan, as has been mentioned, is America's sixth largest trading partner, and not only in terms of the purchasing power and exporting power, but Taiwan is the only country in Asia to lower its trade deficit with the United States. My own State of Florida has exported almost \$1½ billion worth of goods to Taiwan over the last 3 years. The bid for a seat on the United Nations is widely supported by the people and the Congress of the U.S. Congress currently has before it three resolutions to support U.N. membership. As has been pointed out also, the language in these resolutions is different. The fact that these measures have now generated more than 130 cosponsors, shows that there is an overwhelming support for Taiwan-U.N. membership.

The biggest obstacles to Taiwan-U.N. membership remains the People's Republic of China. Existing in the shadow of the PRC since 1971, Taiwan has still managed to participate in the Asian Development Bank, the Asian-Pacific Economic Cooperation, and general agreements on tariffs and trade. Although China protested these actions there have been no subsequent reprisals. This tends to lead to hope that Taiwan's participations will include soon a voice in the United Nations. I believe there is an immediate need to examine this issue because of 21 million people who are going unrepresented in the U.N.

Thank you again, Mr. Chairman.

Mr. LANTOS. Thank you very much.

Before calling on our witnesses, I want to express my appreciation to the staff that worked on the preparation of this hearing; the principal job was done by Ms. Beth Poisson. She was assisted by Jo Weber and Jon Peterson on the majority side. I want to express my appreciation to the minority staff, Mike Ennis, and to Dr. Robert King, the Staff Director of the subcommittee.

All of your prepared statements will be entered in the record in their entirety. We will appreciate if all our distinguished witnesses will summarize their position as succinctly as possible so we may get to the many questions that I am sure members of the panel have.

We will begin with the distinguished former Ambassador to the People's Republic of China, Mr. James Lilley.

Ambassador Lilley, we are pleased to have you. You may proceed any way you choose.

### STATEMENT OF HON. JAMES LILLEY, FORMER U.S. AMBASSADOR TO CHINA

Mr. LILLEY. Thank you, Chairman Lantos, Chairman Ackerman. I would add to that I was also Director of the American Institute in Taiwan as the head of the mission there.

I think it is worthwhile going back a little bit in history and see what the United States said in 1971 and see whether that is relevant today. I quote then-Ambassador Bush, later President of the United States, on the issue of representation in the U.N.

Ambassador Bush said, "The Republic of China, which the General Assembly has been asked to expel as a charter member of the United Nations, far from persistently violating the charter, it has scrupulously discharged its duties. The idea of dispelling the Republic of China is thus as absurd as it is unthinkable."

This was based on the concepts of realism and universality. Ambassador Bush pointed out that there was precedent. Egypt and Syria joined, became one member, divided again, and resumed their separate seats within its limits. Indonesia changed its mind and resumed its seat without any format of readmission.

And it is interesting to note that the representative of Japan, Mr. Nakagawa, supported Ambassador Bush. "My delegate believes," said the Japanese, "that the small has an equal right if not a greater right than the big for protection and just treatment under the U.N. charter."

So much for history. I don't think our position has changed, certainly mine hasn't. I hope Ambassador Bush's hasn't.

I am very indebted to Dr. Chen at the end of the table for his very thoughtful work on Taiwan's democratization and its right to be in the U.N. He points out that the first election of all members of legislative U.N. which was held in December 19, 1992 in Taiwan resulted in an impressive victory for the opposition party. It represented a landmark in Taiwan's progress toward democratization. Since the new legislature began its session last February, it has become apparent that Taiwan's joining the United Nations is the overriding shared demand and expectation of the people of Taiwan today.

### U.N. CONDITIONS OF MEMBERSHIP

Dr. Chen also points out that membership in the United Nations is open, according to paragraph 4, Article 4, paragraph 1, to all peace-loving states which accept the obligations contained in the present charter and in the judgment of the organization are able and willing to carry out these obligations. In addition, the conditions of admission to a new member, the applicant must be a state, a country. This causes indigestion in Peking. But also, it must be peace-loving and Taiwan is. It accepts the obligations of the U.N. charter and Taiwan does. It should be willing and able to carry out the obligations in the judgment of the United Nations, and Taiwan will.

## TAIWAN-CHINA RELATIONS

Moving on from that to the current situation in the Taiwan Straits. Let me just make one or two remarks on this and on American interests. First, I note that Taiwan Straits Exchange Foundation has proposed a meeting with its mainland counterpart in July to improve relations damaged by the Qian Dao Hu tragedy on March 21 in the mainland. Taiwan has proposed a broad range of discussions with China, taking care of major issues that divide the two.

I would add that in this process Taiwan's relationships with China have been constructive, have lowered tensions in the Straits, and have contributed considerably to the betterment and prosperity of the people of China. I would say that President Lee Teng-hui, with the billions of dollars of investment, trade, the new concepts brought into the Chinese economy, the macroeconomic advice given to the highest levels of China's Government in long talks with China's President, its Premier, and others in China, that Lee Teng-hui has done more for the People of China than most of the government in Peking. It is important to recognize how much Taiwan has contributed to the overall betterment of the people of China.

Moving on, what are U.S. interests in this area? And Chairman Lantos has asked me to address this question, and I will try to do this in a series of points.

First of all, it is in the interests of the United States to have tensions ameliorated in the Taiwan Straits. I came into the administration in 1981 when those tensions were very high, as the Chinese in Peking beat us down the ladder of concessions ending up in the August 1982 communique on arms sales to Taiwan. We gave in and we were forced to concede a great deal to them. But since that time, because of enlightened policies of supporting Taiwan's legitimate military defense requirements, we have been able to bring about a situation in the Taiwan Straits which is remarkably better.

It is peaceful, it is stable, and it is improving. It is in the interests of the United States that this situation be maintained.

Second, it is in the interests of the United States—and I hope we will back this up—that any solution between Taiwan and China be peaceful. We have to provide the defensive strength in terms of Patriot missiles, frigates, F-16s, IDF support, helicopter support, that Taiwan can defend itself. I am told by a recent visit of former U.S. general officers and admirals that Taiwan's military strength is excellent, and this remains the best deterrent to any military solution in the Straits.

It is very important that the United States maintain this support. The congressional contribution has been important by saying clearly that the TRA takes precedence over all communiqués and agreements.

Third, China is important to the United States but only when it serves its own interests. I can say from personal experience that China has been key in defusing the trust situation in North Korea. China will be an important player in the future in achieving stable conditions in the South China Sea, stability in the Taiwan Straits. And we must also work with China to WMD check proliferation.

China's cooperation in Desert Storm was important. They voted with us on 11 resolutions. China's support on Cambodia was important too, in gaining the dominance of the Perm Five solution in Cambodia over the murderous Pol Pot, Klim's traditional friends.

Again, we have achieved considerable progress in gaining access for Taiwan to international governmental organizations as well as China's participation therein, i.e. in both the Asian Development Bank and APEC. This precedent has been established for joint representation of China and Taiwan, then international governmental organizations, but we need other nations' support to achieve it. We got this in the ADB and APEC and we were therefore successful.

I think we want Taiwan in international governmental organizations and we want PRC cooperation on this. It seems to me appropriate that the areas we focus on are the International Monetary Fund, the World Bank, and most importantly, the International Atomic Energy Agency. Taiwan should be a full member. It has all the qualifications. It also has a great contribution to make to these organizations.

I would now point out that support of democracy and prosperity is important to United States' interests. There should be in the United States strong support for the growing expansion of democracy in both Taiwan and Hong Kong. And I support Tony Lake's position on this, namely the enlargement of democracy.

#### PROCEDURAL PROBLEMS IN ADMITTING TAIWAN TO THE U.N.

There is a specific problem in getting Taiwan in the U.N. and you have touched on this in your comments. I would defer to my good friend John Bolton to point out the procedural problems in getting Taiwan into the U.N. It boils down to a Security Council veto, a Security Council commendation is essential to getting the General Assembly to vote in an admission. The attempts of Taiwan last year to get a resolution supported by seven Central American countries failed badly in the General Assembly, giving us an indication of PRC strength.

Again, I would like to work for the possible. I don't like to see Taiwan take on impossible tasks. I think it is more important to move on these subsidiary international governmental organizations. But I do support the general concept that Taiwan belongs in the U.N.

Let me make one final comment; I have worked in both China and Taiwan as the equivalent of the American chief of mission, and I worked closely with John Bolton and his staff in getting Chinese support for Desert Storm, and we largely succeeded. One thing that is necessary to remember in the negotiations with the Chinese, you can strike deals with them. I can go into debate later in the question and answer period. Briefly, China virtually has a "principled position" and can oppose a deal in the initial stage of negotiation but in the end they have come virally across and made a deal.

I think it is important that the United States take a persistent and tough position and exercise it with skill; know clearly what you want to achieve; know that it is possible, and then do it, and don't back off. That is my recommendation for dealing with this problem.

Thank you very much.

[The prepared statement of Mr. Lilley appears in the appendix.]

Mr. LANTOS. Thank you very much, Ambassador Lilley.

I am pleased to call on the Honorable John Bolton, who served with great success as Assistant Secretary of State for International Organizations in the previous administration. You may proceed any way you choose. Your prepared statement is part of the record.

**STATEMENT OF HON. JOHN BOLTON, FORMER ASSISTANT SECRETARY OF STATE FOR INTERNATIONAL ORGANIZATIONS**

Mr. BOLTON. Thank you, Chairman Lantos, Chairman Ackerman, members of the two subcommittees. It is a pleasure to be here today. I believe the United States should support the ROC's efforts to regain U.N. representation. Its population size, its economic strength and its democratic development all argue for renewed representation. On the merits, I think there are simply no questions that Taiwan deserves such representation.

**LEGAL QUALIFICATIONS FOR TAIWAN'S ADMISSION TO THE U.N.**

In my prepared testimony I have elaborated on several legal arguments which I will mention here. First, Taiwan clearly qualifies for membership under the U.N. Charter, as the examples of the two Germanys, the two Koreas and the two Yemens clearly demonstrate. Second, Resolution 2758 almost certainly violated the Charter by proposing to replace Taiwan's representatives with those of Beijing. Third, the most obvious solution is to repeal that resolution and restore Taiwan's representation. The ROC has made it quite clear it does not seek to supplant the People's Republic of China, but only obtain representation for itself.

Now, here there are several additional points. First, there is no question but that the General Assembly can repeal the resolutions of an earlier General Assembly, as Resolution 4686 of 1991, repealing the infamous "Zionism is racism" resolution, recently demonstrated.

Second, reseating Taiwan corrects an earlier act of the General Assembly, and therefore no recourse to the Security Council is required.

Third, Taiwan's 1971 withdrawal was quite likely not contemplated by the U.N. Charter, and in any event has to be viewed in light of the illegitimate adoption of Resolution 2758.

Fourth, the repeal of Resolution 2758 should not be deemed an important question under Article 18 of the Charter requiring a two-thirds vote. Resolution 2758 itself was not adopted as an important question, and the vote on its repeal should be treated in a parallel fashion.

Here again, the repeal of Resolution 3379 equating "Zionism with racism" provides an important and very supportive precedent.

Many of these points are somewhat technical and I will not repeat them at length here, although I would of course be happy to answer any questions members may have. I wanted to be certain, however, that the arguments were laid out for the record to demonstrate that there are in fact ways to reestablish the ROC's U.N. representation.



PROS AND CONS FOR THE INTERNATIONAL COMMUNITY OF TAIWAN'S  
ADMISSION

I have also treated in summary fashion in the prepared testimony the cost to the international community and to Taiwan stemming from the lack of ROC representation in the U.N. system. This is not simply an act of political symbolism. There are tangible benefits to being represented in the U.N., and there would be real benefits to the U.N. system by having Taiwan fully represented.

In addition, I believe that there are several international political concerns that also support reestablishing the ROC's representation in the U.N. The most important from our perspective, of course, is advancing the interests of the United States. There is no question but that regaining representation for Taiwan would be a grand slam home run for the United States. Although numerous improvements have taken place in the past 6 or 7 years in the overall behavior of the General Assembly, much remains to be done. A relatively large, democratic, prosperous, stable, non-OECD member would be of considerable assistance in continuing that progress.

Moreover, in due course, we could once again expect to see the Republic of China sitting on the Security Council, this time as a nonpermanent member. Such a result would almost surely be in America's best interest, and I think given the history of the ROC in the United Nations, we owe it to an old friend to the best it can to help it achieve what is clearly a high foreign policy priority.

Next, stability in East Asia is gravely threatened by the uncertain state of affairs in North Korea and in the near future quite likely will be exacerbated by generational changes taking place in Beijing. Many decisions affecting Taiwan directly and its people may be made in the Security Council or other U.N. organs such as the IAEA.

As of now, however, the ROC's 21 million citizens with enormous interests, indeed their very lives, will be unrepresented. This unfairness must be corrected.

Finally, many have wondered what can be done to confront Beijing with its opposition to the trend toward democracy in the rest of the world. The importance of open trading relations and ironically the positive impact on human rights the trade might have dimmed the idea that human rights is the answer. U.N. representation for Taiwan by contrast is not tied with trade and is not intended to diminish the PRC's role in the U.N. as a permanent member of the Security Council.

It is not a zero-sum game. Instead, it simply provides a way to force Beijing to pay for the consequences of its outmoded view of international politics. It would force Beijing to explain to the world its own policies compared to the democratic policies of the ROC. That can only have a salutary impact.

Supporting Taiwan is the right thing to do and this is the right time to do it. Thank you, Mr. Chairman.

[The prepared statement of Mr. Bolton appears in the appendix.]

Mr. LANTOS. Thank you very much. Our next witness is Professor Hungdah Chiu, School of Law, University of Maryland. We are pleased to have you, sir.

**STATEMENT OF HUNGDAH CHIU, PROFESSOR OF LAW AND DIRECTOR OF EAST ASIAN LEGAL STUDIES PROGRAM, SCHOOL OF LAW, UNIVERSITY OF MARYLAND (BALTIMORE)**

Mr. CHIU. Thank you, Mr. Chairman, for giving me the opportunity to present my view. The exclusion of the Republic of China from the United Nations is a gross violation of the human rights of 21 million human beings.

Despite the unjustified exclusion of the Republic of China from the United Nations and its affiliated or specialized agencies in 1971 and 1972, the Republic of China continued to support the Resolution of the United Nations. The Republic of China implemented the United Nations Security Council resolutions against Iraq in 1990 and Yugoslavia in 1992. It provided international disaster relief for more than 40 countries of the members of the United Nations. It also provided technical assistance and developed funds to many developing countries who are members of the United Nations.

**EXEMPTING TAIWAN VIOLATES HUMAN RIGHTS**

In response to the popular demand of the people in the Republic of China in Taiwan, the Republic of China is making an effort to seek arrangement for the representation of the 21 million people of Taiwan in the United Nations and its affiliated agencies. However, the Republic of China's national goal of establishing a united, democratic, free and prosperous China, as repeatedly emphasized by its President, Lee Teng-hui, remained unchanged. However, before the unification can be achieved, the Republic of China on Taiwan must have an international status, which enabled it to participate in international organizations, to ensure that the human rights of the 21 million Chinese in Taiwan can be respected.

The PRC's attempt to exclude Taiwan from the United Nations and other intergovernment organizations ironically has undercut its goal for peaceful unification of China. The PRC's policy only pushes the Chinese people in Taiwan to seek Taiwan independence rather than unification of China. On the contrary, if all of China including Taiwan can be represented in the United Nations, interaction between Taiwan and the mainland in the neutral environments of international forum can enhance the prospect of peaceful unification of China, as recently pointed out by the Republic of China Prime Minister Lien Chan in an article, published in the *Strategic Review*.

In the United States, the Taiwan Relations Act provides that the preservation and enhancement of human rights of all people on Taiwan as reaffirmed as an objective of the U.S. policy. In Article 55 of the United Nations Charter, it provides that with a view toward the creation of conditions of stability, which are necessary for peaceful and friendly relations among nations based on the respect of the principle of equal right and self-determination of the people, the United Nations shall promote universal respect for and observance of human rights and fundamental freedoms for all without distinction as to race, sex, language or religion.

Can we say that the continued denial of the fundamental rights of the 21 million Chinese people in Taiwan to be represented in the United Nations is consistent with the principle stated in Article 55 of the U.N. Charter?

Therefore, to support the wishes of 21 million Chinese people in Taiwan to have appropriate representation under the principle of one China in the United Nations, and its affiliate organizations, is not only consistent with the declared policy of the United States, but also with the charter of the United Nations.

#### EXEMPTING TAIWAN IS IMPRACTICAL

Moreover, the Republic of China on Taiwan represents a community that has risen from poverty to wealth and industrialization, whose developmental experience and capability to provide economic and technical assistance would certainly benefit many developing countries which both the United States and the United Nations are trying to help.

When the United Nations and its specialized agencies or affiliated agencies are beset by financial difficulties, it is unwise and impractical to deny membership status to the Republic of China in Taiwan, the country whose Gross National Product is the world's 20th largest and who is willing and able to make a significant contribution to these organizations through membership dues and donations, thus indirectly it will reduce the financial burden of the United States, who pays the largest share of dues and donations to these organizations.

As a first step to resolve the question of the Republic of China in Taiwan's participation in international organizations, especially the United Nations, I propose that the United States support the seven Central American countries' proposal last year at the United Nations General Assembly, which calls for establishing an ad hoc committee to analyze the exceptional situation of the 21 million people in Taiwan who are not represented in the U.N.

Unfortunately, last year it didn't get through the General Committee of the United Nations, it wasn't on the agenda of the General Assembly last session. I hope this year the United States can support the proposal.

Thank you.

[The prepared statement of Mr. Chiu appears in the appendix.]  
Mr. LANTOS. Thank you very much.

Our next witness is Dr. James Seymour, Senior Research Scholar, East Asian Institute, Columbia University.

#### STATEMENT OF JAMES D. SEYMOUR, SENIOR RESEARCH SCHOLAR, EAST ASIAN INSTITUTE, COLUMBIA UNIVERSITY

Mr. SEYMOUR. Thank you. I will just give a brief summary of my testimony. I trust you all received the final version, that is the one with the footnotes. And I begin with a general statement of the principles involved in this issue, and argue that as a matter of principle the people of Taiwan are entitled to representation in the United Nations, and then I move on to the substantive advantages that would accrue from Taiwan membership, and some of this has already been discussed by other people, and indeed other people have come up with advantages that I hadn't thought of.

Then in my prepared statement I get down to the details, and as is so often the case in these matters, the devil is in the details. I reached the conclusion that—when you invited me to testify I said, that is easy, I will separate the sovereignty issue from the

U.N. membership issue. The more I thought about it and talked with experts in this field of who is entitled to membership in the United Nations, the more I thought about it, the more I learned, the more I realized that unfortunately these two issues cannot be separated, that the sovereignty issue is really central, and I don't think anybody here today, all the speakers, both the Congressmen in their opening statements and the other witnesses, nobody has really wrestled with this issue. And I don't claim that I have got a solution for it.

But the United Nations is an organization of sovereign states. That is what membership in the U.N. means. And so I conclude after discussing the various precedents and establishing they are not really relevant, Belarus, Ukraine, Germany, Korea, I say that if the Taipei government is serious about gaining U.N. membership, it should bite the bullet and establish itself as a nation state and then round up support of the sort that will preclude China's using her veto power.

This is not something I advocate or oppose, that is, an independent Taiwan, but if Taiwan is serious about U.N. membership, that is what must be done. Ambiguous moves such as last week's white paper that I talk about in the prepared statement will only antagonize Beijing without advancing the cause of membership. I don't mean we should avoid doing something just because it will antagonize Beijing, but we should be very clear what we are getting ourselves into.

And indeed already Beijing has condemned the white paper as advocating the creation of two Chinas, and as I read to the real message of the white paper from Taipei, it is that the Taipei government lacks the political will to do what is necessary to establish Taiwan as an entity eligible for U.N. membership. Under these circumstances, there is little role the U.S. Congress can play.

The United States can lend support when it is asked, but it has never been able to and cannot now save the Chinese nationalists from the folly of their ways. Our role should largely be limited to insisting that they and all governments abide by international human rights standards. And I certainly think we should give credit where credit is due in the wonderful progress that Taiwan has made, and indeed there are no prisoners of conscience on Taiwan today, and we should certainly acknowledge that fact.

Beyond this, the United States should not try to run their affairs. If the United States gets too far out in front, it will stimulate Beijing's paranoia. Whatever Taiwan decides, it should be a purely domestic decision, without involvement from the United States. Were America to take the lead in promoting Taiwan's independence, Chinese in and out of power would blame America for dividing the country and in the last couple of weeks Beijing has had quite a media campaign blaming foreigners for this general problem. So far the Japanese have taken most of the flak, but usually when they start attacking the Japanese they end up attacking us.

And were things to go sour, the United States might also be blamed by the Taiwanese. At any rate the United States needs to be very clear about what responsibilities it wants to assume under various scenarios, including worst case ones. Of course, I have in

mind that China has indicated that it might use force if Taiwan were to declare independence.

In addition, if we do take an active role in advancing the cause of General Assembly membership for the Taipei government, we should insist on some quid pro quo. These might be in the area of the ROC's ending its involvement in international organized crime that I mentioned earlier in the prepared statement, improving its environmental record such as greater protection for endangered species, and being better about granting the visas of American citizens. I have some personal interest in that last issue.

Gaining U.N. membership is going to require great diplomatic skill on the part of the Taiwan Government. A way must be found to obtain virtual sovereign state status without provoking Beijing into taking military action. Already ROC spokespersons sometimes refer to Taiwan as independent and sovereign, although it is not clear whether this is the official line. Usually the "I" word is shunned to avoid antagonizing Beijing and right wing extremists on Taiwan.

But what is important is the substance, not the terminology. So far we have seen little substance. As Beijing sees the situation, both Taiwan's nationalists and especially the pro-independence democratic progressive party are on the wrong side of history. The Chinese see maximizing the territory of the People's Republic as a historical imperative. Actually, it is they who are misreading history. The world has undergone several ways of empire dissolution and decolonization culminating in the demise of the Soviet Union. Today the world trend is toward realization of truly national states with the establishment of the Czech Republic and Slovakia as the most recent cases in point.

In desperately trying to hold on to places like Tibet and gain power over Taiwan, the Chinese are fighting the trend. The breakup of the Chinese empire will be no less painful for China than it was for Spain, France, the Netherlands and Soviet Russia. Beijing knows that relinquishing the claim on Taiwan is the first step down the road they don't want to travel. The United States must be careful not to push lest it be blamed for the whole phenomenon of empire collapse, but certainly we should not stand in the way.

[The prepared statement of Mr. Seymour appears in the appendix.]

Mr. LANTOS. Thank you very much.

The next witness is Lung-Chu Chen, Professor of Law, New York Law School.

#### **STATEMENT OF LUNG-CHU CHEN, PROFESSOR OF LAW, NEW YORK LAW SCHOOL**

Mr. CHEN. Thank you very much. Good morning. I am Lung-Chu Chen, Professor of Law at the New York Law School, Research Affiliate in Law at Yale Law School, and President-elect of North America Taiwanese Professors' Association. I deeply appreciate the opportunity to be here today to address this important and timely issue. I am especially glad because I just returned the day before yesterday from Taiwan, as a visiting professor of law at the National Taiwan University, my alma mater.

Should Taiwan be admitted to the United Nations? Yes, Taiwan should be admitted to the United Nations—and it is high time.

Taiwan's admission to the United Nations is the overriding, shared demand and expectation of the people of Taiwan today. This was the distinct impression I got during my several visits to Taiwan in 1993, giving lectures and speeches, and the impression was strongly reinforced during my recent visiting professorship at National Taiwan University.

#### TAIWAN: A SOVEREIGN AND PROSPEROUS NATION

In September 1993, when the U.N. General Assembly refused to entertain the joint request by seven member states that Taiwan be considered for U.N. membership, it did violence to the shared demands and expectation of the Taiwanese people. It also means that the United Nations, which is supposed to represent all nations of the world, will continue to exclude a politically and economically dynamic nation with 21 million inhabitants and a \$210 billion GNP.

The United Nations action or inaction perpetrated an injustice done 23 years ago, when the General Assembly seated China in place of Taiwan.

In October 1971, the General Assembly adopted Resolution 2758, by which the People's Republic of China, PRC, was seated in the U.N. and Chiang Kai-shek's representatives under the banner of the Republic of China, ROC, were expelled. Those were the words in the Resolution. Thus the tables were turned. China was in and Taiwan was out.

In fact, what happened was that an old myth was replaced by a new myth. The old myth was that before 1971, that Chiang Kai-shek's regime represented China as well as Taiwan. And the new myth was that after 1971, the PRC represented Taiwan as well as China.

The status of Taiwan, which was the crux of the Chinese question in the U.N., was not addressed at all.

Although Taiwan has been kept outside the United Nations for the past 23 years, it has not ceased to exist. Quite to the contrary, Taiwan has developed as a prosperous and democratic country.

China's, that is, PRC's territorial claim to Taiwan as most recently reiterated in its Taiwan white paper of August 1993, is as absurd as Iraq's territorial claim to Kuwait. Since its founding in October 1949, the PRC has never extended its effective control and actual jurisdiction over Taiwan for a single day, despite its militant rhetoric of Taiwan being an indivisible part of China.

Taiwan is Taiwan and China is China. Taiwan and China are two separate sovereign states, diverging fundamentally in their political, economic, and social systems.

Taiwan is not part of China. Taiwan's present and future destiny is not an internal affair of China. Judged by the international requirements for statehood, Taiwan is a sovereign, independent state in every sense of the word. Taiwan has control over its people, a defined territory, and a government capable of governing effectively, internal processes, and of acting responsibly in external relations.

Taiwan's population of 21 million is larger than those of three-quarters of the 184 U.N. member states. It has more people than Norway, Sweden, and Finland combined. Taiwan is the 14th largest trading state in the world and the fifth largest trading partners of the United States, and has been a leading holder of foreign exchange reserves in recent years.

Furthermore, Taiwan has undergone a profound political transformation toward democracy and human rights, along with the impressive economic development. This is what the Taiwan experience is all about.

As a democratic, prosperous and revitalized Taiwan looks toward the international arenas to share with others the Taiwan experience and to make financial and other contributions, it is time that Taiwan be admitted to the United Nations and to other international governmental organizations.

Taiwan's membership in the United Nations as Taiwan, not as a truncated China, will serve the common interests of the world community by affording the people of Taiwan human dignity, respect and participation by serving the long-term interests of China and by fulfilling the principle of universality in making The World Organization more representative and effective.

Toward this end, Taiwan as an independent, peace-loving state, country, should take the initiative to apply for admission as a new member of the United Nations in accordance with Article 4 of the U.N. Charter. The conditions of admission of a new member are, one, the applicant must be a state, a country; two, it must be peace-loving; three, it accepts the obligations of the U.N. Charter; and four, it is able and willing to carry out the charter obligations in the judgment of the United Nations. These are the conditions Ambassador Lilley referred to earlier. Judged by these conditions, Taiwan is admirably qualified to be a new U.N. member, provided it discontinues the lingering KMT claim to represent China or to reunify China.

This straightforward approach to Taiwan's admission to the United Nations must not be confused with such alternative formulas as one country, two seats, or parallel representations for a divided nation. The analogies of the simultaneous admission of two Germanys and two Koreas in the U.N. are not a posit here.

When the two Germanys and the two Koreas joined the United Nations, they were admitted on the basis of two countries, two seats, rather than one country, two seats, or one country, with parallel representations.

Anything short of full U.N. membership would prolong the injustice that has been done to 21 million Taiwanese. A referendum of the Taiwanese people would show widespread support for U.N. membership and disdain for timid half measures such as observer status or membership dependent on prior participation in secondary organizations.

China has arrogantly expressed its strong objection to Taiwan's membership in the United Nations. But the question of Taiwan's admission to the United Nations is a decision to be made by all of the U.N. member states in accordance with the purposes, principles, and procedures of the U.N. Charter. It is not a matter for

China to dictate, nor is it one for private negotiation between China and Taiwan.

Taiwan's member application should stand on its own merits, not to be used as a means toward a fantasy of, "the ultimate reunification with China,".

It will be a long, uphill fight for the people of Taiwan to become a member of the United Nations. But God helps those who help themselves. The Taiwanese people are doing their best in their drive for U.N. membership. They deserve the strong support of this committee of the United States and other member states of the United Nations.

Thank you.

[The prepared statement of Mr. Chen appears in the appendix.]

Mr. LANTOS. Thank you very much, Professor Chen. I thank all of the witnesses for a singularly informative and valuable panel.

I would like to begin by raising some fairly fundamental issues, and I would be very happy to have any or all of you comment on these.

The Foreign Minister of Taiwan, Lin Chen, the other day made a rather remarkable statement. He said we no longer pretend to be what we are not. Putting this in the context of the history of Taiwan, I presume what Foreign Minister Chen said or implied is that while for a long time the Republic of China on Taiwan pretended to be the government of the whole of China, they no longer pretend to be the government of the whole of China. They have come to terms with reality, that they are the government of something called Taiwan.

Now, several of you had different approaches to the concept of purposeful ambiguity. I believe you, Professor Seymour, were harshly critical of ambiguity, when of course the whole history of diplomacy is predicated on purposeful ambiguity. If you read the most recent treaties on diplomacy by Henry Kissinger, then all of that volume, extremely interesting volume, deals with deliberate and purposeful uses of ambiguity through human history, through diplomatic history.

So the notion that ambiguity, purposeful or otherwise, has no role in the conduct of international relations, I have difficulty swallowing, because ambiguity has been at the core of many, many resolutions of fundamental conflicts among nations.

And without some ambiguity, many of the issues would not have been resolved or would have been resolved in a far more violent fashion. Clearly one of the most interesting bits of ambiguity in this day and age in another part of the world relates to the question of how to name the tiny entity called Macedonia or the former Yugoslav Republic of Macedonia or Skopje or you name it.

So ambiguity is part of the scene. And while it may appeal to somebody who is impatient to make a plea to go away with ambiguity, I think in the real world it is very unlikely that ambiguity in the field of diplomacy will be done away with.

#### CONSEQUENCES FOR U.S. OF RECOGNITION OF TAIWAN

But be that as it may, from the point of view of the United States, and that is really the overwhelming relevance of the economy to our committee, one of you claimed that Taiwan's admission



into the United Nations would be a grand slam home run for the United States. I believe you are the one who said that, Professor Chiu. I may be mistaken.

I would like all of you to comment on this rather bold description. And are there any sort of flip sides to this grand slam home run?

We will begin with you, Ambassador Lilley.

Mr. LILLEY. Well, I agree with you, sir, that ambiguity can work in your favor, and you have to be able to deal with posturing, threats, and all the usual paraphernalia of diplomacy that is used by the leaders in Peking.

I remember when we initially proposed that Taiwan stay in the Asian Development Bank, and this was greeted by a huge blast out of Peking saying this was a two China policy, this was absolutely unacceptable, Taiwan had to be thrown out as they were in the World Bank and the IMF, and that was it. Two years later, Peking entered and Taiwan stayed.

Unfortunately, at that time, initially the State Department supported the Peking position, but they backed off. So I am saying when you go through this Kabuki dance of posturing, you have got to push through and find out what the fundamentals are. And in this case there is considerable evidence that the rigid thinking on sovereignty that is held by the old types in Peking is eroding.

I have personally been castigated bitterly by Peking, by even suggesting their ideas of sovereignty were obsolete, that their ideas of extended sovereignty in the South China Sea were out of 19th century gun boat diplomacy. This was greeted with a great deal of unhappiness and they have done their best to keep me out of China since. So I am saying there is great sensitivities there.

What I would like to say is in dealing with tactical nuances, it is very important for the United States to get it straight, and I am going to give you a very brief example of how not to do it.

When the democratically elected President of Taiwan, Lee Teng-hui, wants to go to probably the greatest single step for democracy, the inauguration of Nelson Mandela in South Africa, and he is also going to Costa Rica and to Nicaragua where democracy has moved ahead, what does the United States do to him? They say, you can't stop here and refuel your plane because it embarrasses the Peking Government. This is outrageous. The United States eventually backed down, but it was so insulting that he stayed on his plane.

That kind of act works against everything we are trying to do. It discredits the moderate leadership in Taiwan. It feeds extremist forces. It gets in the way of U.S. sales of equipment to Taiwan. It causes all kinds of reverberations everywhere. And it is that kind of thing, plus the cave-in, as you suggested, on Most-Favored-Nation, that gives the impression that we don't know how to handle these matters tactically, that we take a position and then we back off, or that we are subject to Chinese pressures on these matters.

We have to compete in Taiwan. President Lee Teng-hui has given us a formulation of how we can compete effectively in Taiwan and yet maintain the kind of ambiguity, the facade you need to keep the chiefs in Peking happy. He comes up with his own three-stage solution for unification. In this process he points out that it is an important consideration that in this time of separation, that we ac-

knowledge this in some way and give Taiwan a legitimacy that it lacks.

All we are asking for, he says, is legitimacy. We are not seeking independence, we are not enunciating a two China policy. Legitimize us. As Dr. Chen says, Taiwan abides by the international covenant on social and cultural rights, which says that all peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social development. Peking adheres to that covenant. And what President Lee Teng-hui says he has an acceptable three-stage formula that takes care of China's sovereign concerns, and will China now take care of Lee's concerns for legitimacy in the meantime.

President Lee is consistently holding out the kind of olive branch that is needed in China. Even after the disgraceful killing of these Taiwan tourists in China, nevertheless Lee was willing to resume talks with China and get the whole process moving again.

It seems to me, and finally I will end on this note, that as China moves away from the rigidities of the past, and as evolutionary changes take place in China, there is new thinking going on there which is looking towards new status for Taiwan. Taiwan is already reaching out to China and discussing this with. I think the United States is a bit behind the curve on this.

Mr. LANTOS. Thank you very much.

Let me just say on your refueling episode that I fully share your characterization of that event as outrageous, as I think did and do most of my colleagues on this committee.

Secretary Bolton.

Mr. BOLTON. Thank you, Chairman Lantos.

If I may say, with due respect, I had the metaphor of the grand slam home run. Let me add one point to that. That is that although many will tell you that reobtaining representation for Taiwan is going to be extremely difficult, that should not deter diplomatic efforts from going forward. If I could tell you the number of people in the State Department and the foreign ministries among our allies and friends who told us not to pursue the effort to repeal "Zionism is racism," who said you can't do it, forget about it, it is just a symbol, it is a pretty long list. But we went ahead and did it anyway. It shows that if you have the will and determination to do it, it can still be done.

Mr. LANTOS. Can I just stop you there for a second? Can it be done without U.S. leadership?

Mr. BOLTON. That is precisely the point I was going to make, Chairman Lantos. I think, analogous again to the repeal of Zionism is racism, it will require extensive diplomatic efforts by the United States and I think those efforts would be worth it.

Mr. CHIU. On whether the Government of the Republic of China still claims to represent the mainland, this is no longer the case, because on May 1, 1991, the Republic of China terminated state of hostilities toward the Chinese Communists. On the same day, the additional articles for constitution also entered into form. In those articles, it is made clear that all the representatives of the peoples organization, like the National Assembly, the Legislative Yuan,

which is equivalent to the U.S. Congress, are elected in Taiwan. There are no longer seats representing the mainland.

The National Assembly election was held at the end of 1991, and then the Legislative Yuan was held in 1992.

The next President of the Republic of China will be elected by the people in Taiwan, entirely by the people in Taiwan. So the Republic of China is no longer trying to represent mainland China.

Mr. LANTOS. Professor Seymour.

#### RECOGNITION OF TAIWAN AS AN INDEPENDENT STATE

Mr. SEYMOUR. Yes, on the question you raised of ambiguity: ambiguity in international agreements only works if the various parties agree to be ambiguous on a given point, which is to say to postpone the issue. So far there is no indication that Beijing is willing to postpone the sovereignty issue. I gather from what Ambassador Lilley said that he is optimistic that Beijing is going to move on this issue, sooner rather than later. My own view is that it will probably be later rather than sooner. But it will happen eventually. But I just don't think we should do anything that is premature, keeping in mind that when you—

Mr. LANTOS. How do you define premature? I mean, this is an entity which has never been under the control of the Beijing Communist regime. This entity has been in existence, as I would be prepared to use the term, a sovereign entity since the late 1940's.

That is longer than most members of the United Nations have been independent entities. In terms of what this entity has achieved, economically and politically, by whatever yardstick, those achievements exceed the achievements of most of the current member nations of the U.N.

What does the word "premature" mean when you are dealing with a 21 million strong society with \$210 billion in Gross National Product, the second largest foreign exchange reserves, \$80 billion, a very high level of living, a very high degree of freedom of press, free elections, a parliamentary system, the right of people to obtain a passport and travel and invest, at home and abroad, I mean, what does the word "premature" mean?

No parent has ever been ready for parenthood. No nation has ever been ready for nation hood and presumably no country is ever ready for U.N. membership. On that basis we go back to a rather chaotic and hopeless state of affairs.

Mr. SEYMOUR. Entities do not sit in the United Nations. States sit in the United Nations. Until the Government of Taiwan declares itself a state—and it is premature for us to start talking about it as though it were a state—I think all the economics of it and even the fact that Taiwan is now a democracy, which I applaud, it is really irrelevant. You don't have to be a democracy to be in the U.N. You don't have to have a high Gross National Product to be in the U.N. You have to be a sovereign nation state and recognized as such.

And Taipei must be clearer on this. Since unfortunately the People's Republic of China has a veto power in the Security Council, a way must be found to persuade them not to use their veto on this issue.

Mr. LANTOS. Let me stop you on that point. You say must go through the Security Council where there is a veto by the Communist Chinese regime. Many people dispute this clearly. People are proposing solutions, such as the repeal of Resolution 2758, which would merely reestablish the membership of the government in Taipei in the United Nations, and I would be grateful if both you and Secretary Bolton would comment on this.

Mr. SEYMOUR. Well, this issue has gone to the world court, I believe, and the world court has interpreted the charter as meaning that new memberships must be proposed by the Security Council—

Mr. LANTOS. That side-steps the issue. My whole point is the opposite, that this is not a new member, that this is a founding member which was illegally expelled by a United Nations Resolution which now the United Nations General Assembly can reverse, thereby restoring membership to this government without approaching the Security Council.

Mr. SEYMOUR. Well, it would be restoring membership to the Republic of China, not Taiwan, but the Republic of China. And that is in my view unrealistic. Not very many people would support that. And surely Beijing would never allow that to happen. And if you were in their position you wouldn't allow it to happen either.

Mr. LANTOS. Well, when you say "allow," could you be more specific? If the mechanism is not the Security Council but the General Assembly, then they clearly have no veto power, because there is no veto in the General Assembly.

So does not "allow" mean military action? Is that what you are saying?

Mr. SEYMOUR. That wasn't what I meant, although that is something—

Mr. LANTOS. Well, how would they not allow something to happen that they simply don't like?

Mr. SEYMOUR. I think that they would probably be able to persuade a majority of the members of the United Nations that something calling itself the Republic of China, implicit in the name being a challenge to their own legitimacy, that such an entity should not be allowed to sit in the United Nations. I hope I am wrong. I wish I were wrong. But I don't think I am.

Mr. LANTOS. Secretary Bolton?

Mr. BOLTON. Thank you, Chairman Lantos. Let me first put on the table what is an undercurrent here that I think we ought to get out and explore. Part of this debate is a debate between those who advocate independence of Taiwan and those who advocate reunification with the mainland. I think that is for the people of Taiwan to decide. I am registered in Bethesda, not Taipei, and I don't have anything to say about it.

I think it is important to understand that the question of independence does not need to be decided before deciding it is legitimate to obtain representation for the Republic of China on Taiwan. What I hear Dr. Seymour saying is it is going to be very tough to do all right, maybe it will be. But as a practice of the U.N. Charter and the legality itself of Resolution 2758, I don't think there is any question that if the General Assembly votes to repeal the Resolution, Taiwan's representation would be reobtained. It may be very

difficult to do diplomatically, but as a matter of interpretation of the U.N. Charter, it is very straightforward.

Mr. LANTOS. Thank you. Professor Chen.

Mr. CHEN. Thank you very much, Chairman Lantos.

There are several points that have been raised and I would like to make comments. First of all, about the question of independence of Taiwan. The fact of Taiwan's independence is well established. For the past several decades Taiwan has existed as an independent country, independent of the People's Republic of China. What is at issue today is how to call this independent state: the Republic of China, the Republic of China on Taiwan, the Republic of Taiwan, or simply Taiwan—both in geographic and political senses? That is the crux of the matter.

It is no longer an issue in terms of whether Taiwan needs to be independent. It has been independent. It has existed as an independent state; whatever ambiguity there is has to do with the so-called "purposeful ambiguity." In Taiwan they call it "creative ambiguity." It seems to me when purposeful ambiguity obscures realities, distorts realities, it is counterproductive and must be discarded.

As Chairman Lantos, in his excellent statement, pointed out, Taiwan's ambiguous identity seems increasingly anachronistic in this day. I think that comes right to the point. To perpetuate the old rhetoric of "one China" and "reunification" simply obscures the current realities, and hinders constructive thinking in coming to grips with realities.

So it is important that realism be the very basis of making policy. In this regard, what is needed on the part of the Government of Taiwan is the courage to call a spade a spade, to call Taiwan "Taiwan," not some sort of Chinese creature.

According to a statement I heard in Taiwan a few days ago, there have been some 34 different names used by the very "creative" KMT government in referring to "the Republic of China" or Taiwan, causing a good deal of confusion. In the current reappraisal of the U.S. relation with Taiwan, how to rename the Coordination Council for North American Affairs (CCNAA)—using Taipei, Taiwan or something else—has generated considerable debate. To me the most obvious answer is that, as a counterpart of the American Institute in Taiwan (AIT), the new name should be "Taiwan Institute in America" (TIA). Everyone would know what it is, clear and simple. The so-called creative ambiguity or purposeful ambiguity will not serve useful purposes.

Another point has to do with the whole question of Taiwan's membership in the United Nations: will the admission of Taiwan be a grand slam home run for the United States? I wouldn't put it in terms of a grand slam, but in terms of very huge plus for the United States, simply because by having Taiwan as a member of the United Nations, it would help make the World Organization more effective, more representative, and in that sense will serve the interests of the United States. Aside from the very impressive economic development, what is impressive about the Taiwan experience, I think, is the fact that in the course of economic development under a market system, a country can also perform demo-

cratic reform, moving toward democratization and protection of human rights.

In this regard, I think there is so much for Taiwan to share with other members of the United Nations. By enabling Taiwan to play a very active role in the World Organization, it would contribute to make the world a much better place and to share the benefits of the Taiwan experience with many others.

Turn to the question of repealing General Assembly Resolution 2758. With all due respect to Secretary Bolton, I do have considerable reservations about his proposal. Suppose this could be done, then what would be the consequences? Would the People's Republic of China continue to be in the United Nations? Would Taiwan, known as the Republic of China or the Republic of China on Taiwan, be the sole representative of China in the United Nations? Who would occupy China's seat in the Security Council? Have all these questions been addressed? And it seems to me, as Professor Seymour just pointed out, implicit in the name of the Republic of China (ROC) is the continuing confusion associated with the China syndrome. As long as Taiwan holds itself out as some sort of China, it is going to obscure reality and cause a lot of confusion. Increasingly, ROC is called the Republic of *Confusion*.

That is why, for instance, when Lien Chan, the Premier of Taiwan, the "Republic of China," recently appeared on TV in El Salvador, as a special envoy, he was identified as representing "China" and greeted by the flag of the People's Republic of China, not that of the Republic of China. The KMT tried to blame others, but not itself.

Mr. LANTOS. We would write that off to bad staff work, Professor.

Mr. CHEN. But I think it is about time that the Kuomintang government stops the practice of indulging in self-inflicted wounds.

Mr. LANTOS. We understand your point.

Chairman Ackerman.

#### CONSIDERATION OF AN INCREMENTAL APPROACH TO RECOGNITION OF TAIWAN

Mr. ACKERMAN. Thank you very much, Chairman Lantos. I guess Babe Ruth is known as being the king of home runs. I guess most people don't realize he was also the emperor of striking out. If we look at baseball a little further we could come to the conclusion that more games are won by a series of singles and doubles rather than home runs, because when you swing so hard to hit a home run, you very often strike out.

I would like to know what each of you might think of the possibility of pursuing a course more incrementally, such as observer status. Some of you have alluded to it in either your summaries or your statements, but just as a matter for the record, those of you who have not, if you would indicate if you think that this might be a prudent course at this time.

Maybe we can start with Ambassador Lilley.

Mr. LILLEY. Yes, I think you have put your finger on something, Chairman Ackerman, because there is a reality in the repeal of Resolution 2758 that has been suggested but not faced up to yet. When we signed our recognition agreements with China, the United States recognized China as the sole—the PRC as the sole legal

Government of China, and we acknowledged China's position that Taiwan is part of China.

I believe there are about 150 countries in the U.N. that have some form of agreement with China PRC that is the sole legal Government of China. So I think this effectively rules out getting the General Assembly voting against China on this issue. China has overwhelming support on this.

In terms of your other comment about other arrangements, I think my pitch was that the incremental approach is the approach that should work. And going after the home run probably will destroy chances of getting some real work done in IMF, International Atomic Energy Agency, World Bank, et cetera.

As for observer status, as you know, we had the two Koreas in the U.N. for something like 20 years as observers in the U.N. I don't know the legalities of achieving that, but it seems to me what you are aiming for is some status that leads to eventual entrance of Taiwan into the U.N., and this can best be achieved by moves such as observer status or membership in subsidiary organizations, and increasing Taiwan's role in international governmental organizations. I think that is the route to go.

Mr. BOLTON. I think it is obviously a tactical question that the Government of Taiwan has to consider. I would say, leaving aside IMF and World Bank, which, although technically part of the U.N. system, have functioned autonomously essentially throughout their entire history. Moreover, joining the specialized agencies one by one is not going to work, as I lay out in my prepared testimony. Although it is theoretically possible, for example, for the ROC to join the International Atomic Energy separately from joining the U.N. itself, as a practical matter I think that is unlikely. The argument would be made whether IAEA or World Health Organization or any of the rest of them, this is an effort by the ROC to use a specialized agency for a political purpose.

It has been the long-standing bipartisan practice of the United States to oppose politicizing the specialized agencies and to force political disputes within the U.N. into the political organs, notably the Security Council and the General Assembly.

As an example, in 1989 the Palestine Liberation Organization tried to become a member state of the World Health Organization and we opposed that, Congress opposed that very vigorously and we were successful, using as one of our principal arguments that it was not appropriate to use the specialized agency to make a political point.

So that by process of elimination, the only real option is full membership in the United Nations, through which can you then obtain automatic membership in the specialized agencies.

Mr. ACKERMAN. You draw the analogy with the Palestine Liberation Organization. Not to be argumentative with you, and I will follow this up with my next question, but it seems to me that the Palestine Liberation Organization greatly lacked, no matter how obfuscating you would want to be with your terminology, any of the trappings or infrastructure of statehood.

Mr. BOLTON. That is exactly correct. And in the case of Taiwan, I think it is correct that it meets the criteria as practiced in the U.N. Charter. Most members of the General Assembly either recog-

nize Beijing or have diplomatic relations with it. I don't think that is an obstacle. The United States sponsored the admission of North Korea even though we obviously did not have any diplomatic relations with them.

Moreover, there are a large number of U.N. members who believe in the principle of universality. Whether they had direct diplomatic relations with the PRC or not I do not think would necessarily be a bar to their voting to restore representation for Taiwan by repealing 2758.

Mr. CHIU. We have got to be more realistic. We cannot resolve this problem within a few minutes. The seven Central American countries' proposal to study this question is a more pragmatic approach.

Mr. ACKERMAN. The traditional congressional solution as well.

Mr. CHIU. Yes, sir. As Ambassador Lilley pointed out, in the Asian Development Bank, also now in the GATT, also the Asian-Pacific Economic Cooperation, under the principle one China the 21 million people in Taiwan are represented, this is something which I think can be worked out for the case of Taiwan's participation in the United Nations. One cannot ignore the existence of the People's Republic of China's opposition. You need to work within this framework of one China, and this is not an academic question. This is a political and pragmatic question. I think Ambassador Lilley's point of view is more pragmatic.

Mr. ACKERMAN. Dr. Seymour.

Mr. SEYMOUR. In baseball, getting to third base doesn't count for much. What you really have to do is get home. So you might as well aim for a home run. The incremental approach—

Mr. ACKERMAN. If you have a man on second and third and first. A single counts for the ball game if it is a tied score and you are in the ninth inning.

Mr. SEYMOUR. I don't want to get lost in the metaphor.

Mr. LANTOS. Could I ask Chairman Ackerman to translate this into soccer terminology?

Mr. SEYMOUR. It just seems to me that the Taipei government must decide whether it wants to be in the United Nations as Taiwan or whether it wants to be the Republic of China and out of the U.N. And if it decides on the former, then go for the home run. And if they don't, they are not going to get past third base.

Mr. ACKERMAN. Professor Chen.

Mr. CHEN. Thank you, Chairman Ackerman. I think incremental approaches such as observer status, participation in secondary organizations, or ad hoc study committees, at first glance, might have some pragmatic character, but, after critical appraisal, it becomes quite clear that incremental approaches of one type or another could get you only so far. The goal is to reach the home base, rather than to stop short at the second or third base.

China has made abundantly clear its opposition to Taiwan's participation in the United Nations in any form, in any manner, and under whatever name. That being the case, it is very important to do what is right, what is straightforward. And it appears that the appropriate approach is the upright, front-door approach, instead of a back-door approach. The front-door approach means that Taiwan,



as an independent, peace-loving country, takes the initiative to apply for U.N. membership.

An incremental approach may take forever. For instance, the Taiwanese people were told repeatedly that Taiwan's admission to GATT was imminent—yet, after many years of assurance and reassurance, Taiwan's quest for GATT membership continues. So I feel that a strategy of simultaneity will be better, in the sense that Taiwan should simultaneously apply for admission to the United Nations and to other international governmental organizations. Whatever difficulties or efforts involved would practically be the same as those encountered when focusing on admission to just one particular agency. Once Taiwan gets admitted to the United Nations, then all the doors in other organizations will be open.

A word regarding Dr. Seymour's concern about how Taiwan is to call itself—Taiwan or any other name. To call Taiwan "Taiwan," to me, is more proper and fitting. However, the people of Taiwan really should decide what name to use in applying for U.N. membership—Taiwan, the Republic of Taiwan, the Republic of China, the Republic of China on Taiwan, or something else. The preferred means is to hold a plebiscite (referendum) in Taiwan. In fact, a very substantial number of legislators in Taiwan are in favor of a referendum act, a plebiscite act, so that important national policies can be determined on the basis of popular will, as freely expressed through a referendum. And I think a decision based on a plebiscite would certainly entail greater domestic unity and would gain wider international support.

Mr. ACKERMAN. I don't know that it is better to put the cart before the horse or vice versa in deciding what the name should be before we get down to the real issue.

Mr. LANTOS. That depend whether you have a push cart or a pull cart.

Mr. ACKERMAN. It is the difference between a horse and carriage and a rickshaw, I guess. Or whether we should discuss the merits of the issue first or determine what you call yourself. Let me ask this of the panel, if I can have a very brief answer from each of you: is there a qualification for U.N. membership that Taiwan lacks, aside from the real name issue. If we can start again with the Ambassador.

Mr. LILLEY. Could you rephrase that?

Mr. ACKERMAN. Is there a qualification for membership in the United Nations that Taiwan lacks at present? Is there anything that would disqualify Taiwan from being a member of the U.N., besides making a determination of what it would be called?

#### STATUS OF TAIWAN AS A SOVEREIGN STATE

Mr. LILLEY. Well, according to the four conditions that we saw, Taiwan meets three of them. The first condition on being a sovereign state is the issue that is challenged. And the practical consideration is that—

Mr. ACKERMAN. That is the question. Is Taiwan a sovereign state?

Mr. LILLEY. 150 nations out of perhaps 180 in the U.N. say no, so I don't think it has—

Mr. ACKERMAN. They are not testifying, Mr. Ambassador. What aspect of being a sovereign state is lacking in Taiwan?

Mr. LILLEY. Recognition by other countries.

Mr. ACKERMAN. But that would be granted if they were admitted to the U.N.

Mr. LILLEY. But then you get the situation that they won't be admitted to the U.N. because these nations do not recognize Taiwan as a sovereign state. If 150 nations out of 180 do not recognize Taiwan as a sovereign state, how are you going to break the logjam?

Mr. ACKERMAN. What defines sovereignty? Forget agreements people have made, forget gentleman's agreements or agreements among nations as to whether or not someone will be recognized or not. Is Taiwan lacking anything within the definition of sovereignty?

Mr. GILMAN. Will the gentleman yield a moment?

You mentioned 150 states say no. Was there a vote, a prior vote taken?

Mr. LILLEY. When each of these nations recognizes China, part of the conditions of recognizing is to recognize PRC as the sole legal Government of China. And in this arrangement, Taiwan is then ruled out and Taiwan has to close its embassy and go home because it loses its sovereign status.

Mr. GILMAN. You are basing that on the original resolution?

Mr. LILLEY. I am talking about individual bilateral arrangements between China and each country that recognizes it.

Mr. GILMAN. You are basing 150 on individual bilateral negotiations?

Mr. LILLEY. I am basing it on how many nations recognize China today.

Mr. ACKERMAN. If I can just regain my time, your point is well made, Mr. Gilman. People can indeed disinherit and disown their son or their daughter, but whether or not that person is their son or their daughter remains an absolute fact. And my question is, absent what some people might assert or agree to, is there anything lacking about Taiwan, so far as it being considered an independent sovereign state? You can pass and we can go on.

Mr. LILLEY. Let me think about it.

Mr. BOLTON. With all due respect, Mr. Ackerman, the question is not whether Taiwan has the attributes of a sovereign state. The Charter Article 4 does not speak of "sovereign states." It speaks of "other peace-loving states," meaning other than the original members.

As to the definition of "state," I think everybody has touched on it in their testimony. In this context it has to be applied through the practice of the United Nations.

Mr. ACKERMAN. That is not my question. My question yet remains, whatever the practices of the U.N. might or might not be, whatever people can have an agreement to exclude or preclude somebody, if everybody in this room decides somebody of a particular nationality is subhuman, that doesn't make them so. What I am asking is, what is lacking in Taiwan that would preclude them from being considered a sovereign state? Is there something other than other people deciding to call them something else?

Mr. BOLTON. I guess what I am trying to say, Mr. Chairman, is the question of sovereignty is not relevant to the issue——

Mr. ACKERMAN. But that is my question. Irrelevant or not I am entitled to the question.

Mr. BOLTON. I think the answer is——

Mr. ACKERMAN. I have to cast a vote and make a determination as to what I think, as my colleagues do, our policy in this body should be. And I might not want to base it on what a gentleman's agreement, among others, might be. I want to base it on my determination of where U.S. policy should be going. And my question remains, and I put it to you, and you have a right not to answer it or to ponder it or anything else, and we will leave the record open if anyone wants to send a statement, what is lacking about Taiwan that would preclude it from being considered a sovereign state.

Mr. BOLTON. I think that looking at past U.N. practice, and this is important, Mr. Chairman, I recognize I am not precisely answering your question, but I think you have to look at it in the U.N. context because that is what we are talking about.

For example, India was a founding member of the U.N. and was deemed to be a state even though quite clearly it was not sovereign at the time.

Mr. ACKERMAN. Taiwan was a founding member of the United Nations and was deemed to be a sovereign state. If it makes it easier, what did Taiwan do or what happened in Taiwan so that suddenly it did not have the sovereignty that it once had? Was it invaded by China? Did the Chinese take over Taiwan? Did the government fall? I will go back to my original question, which I thought was a yes or no answer, that it had something or didn't have something that changed, if you prefer the first question, which I prefer.

Mr. BOLTON. I don't think anything changed. That is why I believe Resolution 2758 is illegitimate. The real question one has to ask is what are the qualifications under the U.N. Charter.

Mr. ACKERMAN. That is not my question. My question goes to what sovereignty is and not what the U.N. is at this point. I don't want to labor it. We will go on to Professor Chiu.

Mr. CHIU. I think the Republic of China in Taiwan of course is a sovereign state, because according to the 1933 InterAmerican Convention on Rights of States, which the United States is a contracting party, it is stated in Article 3, the political existence of the state is independent of recognition by other states. So I fully agree with Chairman Ackerman's view. If you go to the Republic of China in Taiwan, you must have a visa. Your airplane cannot fly over the airspace of the Republic of China without the permission of the Republic of China.

What Ambassador Lilley said is on diplomatic relations. Even for a country establishing diplomatic relations with the People's Republic of China, they recognize the People's Republic of China as the sole Government of China. The United States only acknowledged the Chinese' claim to Taiwan's territory. Most countries are like the United States and don't say anything on the Taiwan status. Some like Japan understand and respect, and some like Canada make it more clear. So whether those countries have diplo-

matic relations with the Republic of China or not doesn't affect the status of the Republic of China as a sovereign state.

Mr. ACKERMAN. Thank you. Dr. Seymour, this was intended to be the yes or no question.

Mr. SEYMOUR. I think the answer is yes, but maybe it is no because I have forgotten how you worded it. What is missing is a clear—and I do not shrink from the word—unambiguous statement by the Taiwan Government that it is a sovereign independent state. Although they seem to be inching in that direction, and I would refer to the last footnote in my testimony, where a spokesman for the government does use the word independent sovereignty.

So if that would really be their position and if they would state that in some formal way, then the condition would be met. Until they do, the condition has not been met.

Mr. ACKERMAN. So basically you are saying it is their declaration of their own independence? I am not trying to put words in your mouth, but in answer to the question what qualification for membership does Taiwan lack, you are saying it is their own declaration of independence?

Mr. SEYMOUR. They have to be a country, not a province in another country.

Mr. ACKERMAN. Are they a province in another country?

Mr. SEYMOUR. You read the constitution, traditionally this was the line of the government. And they are inching away from that.

Mr. ACKERMAN. You are saying they have to state outright they are independent and sovereign.

Mr. SEYMOUR. Otherwise they are not eligible for U.N. membership.

Mr. ACKERMAN. Thank you. Professor Chen.

Mr. CHEN. Thank you, Chairman Ackerman. A simple answer to your yes or no question is no, Taiwan does not lack any qualification of being a sovereign state. It has amply fulfilled all the conditions of being a sovereign state. And as far as the number of the countries recognizing a particular state, this question of recognition has been a continuing troublesome, theoretical problem in the international law, talking about does a state's existence depend upon the recognition by other states, and if so, how many?

And there have been two basic theories in terms of declaratory theory and constitutive theory. Declarative theory simply says a state has fulfilled the conditions of having a defined territory, people, and a government capable of acting internally and externally when those conditions are fulfilled. That is a state.

On the other hand, the constitutive theory would say an international community, a state would require recognition by a certain number of states. How many? There has been no answer. I don't think there is a time really to indulge in this. In my own book, an *Introduction to Contemporary International Law*, published by Yale Press, in Chapter 2—

Mr. ACKERMAN. Do you have an 800 number?

Mr. CHEN. The answer there is it doesn't require that. But to practice something, a state does have to fulfill the basic conditions of being a state, and it doesn't have any minimum numbers of recognition. And I think the very fact—I would just amplify further,

the very fact that the People's Republic of China has been recognized by many states as the only legitimate Government of China does not mean those countries also agree Taiwan is not a state. It is really something for Taiwan to further develop their relations with others.

And it seems to me, as long as Taiwan presents itself to the world community as a state of Taiwan, not as another China representing the whole of China or some mythical remote China in some dream world, then I think Taiwan will gain wider understanding, acceptance in the international community.

That is why it is important Taiwan is known as Taiwan rather than the Republic of China.

#### CHINA'S REACTION TO RECOGNITION OF TAIWAN AS A SOVEREIGN STATE

Mr. ACKERMAN. Thank you very much. What I hope will be a quickly answered question, the final one in this round for me, would China quit the U.N. if Taiwan were admitted under any acceptable name? Do you care, or should we care?

Mr. LANTOS. I would like a yes or no answer, because I want to move to Congressman Gilman as rapidly as we can. So Ambassador Lilley.

Mr. LILLEY. First of all, China would never let this happen. When the nations recognized China, Taiwan is stripped of all the trappings of sovereignty. We do it ourselves. It is a very deliberate move by states to strip Taiwan of the aspects of sovereignty. It is done all the time in order to maintain dual relationships. It is the ambiguity that Chairman Lantos was talking about.

I think this is a hypothetical question. If Taiwan came in, China would leave, yes. They have done it in every other case where countries have recognized Taiwan around the world. They pull out.

Mr. BOLTON. China would not leave.

Mr. CHIU. I think based on the Asian Development Bank practice, they probably will not leave. They will protest but not leave.

Mr. SEYMOUR. If Taiwan declared independence, which is not something I have advocated, I have simply said this is a requirement for membership, if they did that, entered the General Assembly as Taiwan, then I think probably the Beijing government would not leave, although at this moment they don't know what they would do and I don't know for sure what they would do.

Mr. CHEN. I think if that hypothetical contingency should happen, China would protest but would not walk away. I think they have learned a lesson or two from the Soviet Union. When the People's Republic of China came into being in 1949, the Soviet Union was trying hard to have China, the People's Republic of China, seated in the Security Council, while protesting the continuing presence of Chiang Kai-shek's representatives. When their attempt failed, the Soviet delegation walked out.

Subsequently, when the Korean War broke out, the United States was able to mobilize the support of the other members of the Security Council to pass resolutions to condemn North Korea's aggression and take necessary action, thanks to the Soviet walkout. The Soviet Union condemned those resolutions as illegal on the ground that its absence constituted a veto under Article 27 of the

U.N. Charter. But the members of the United Nations said no—a permanent member's absence doesn't constitute a veto. So from that moment on, the Soviet delegation returned to the Security Council, proclaiming that it was never going to make the same mistake again. They have not walked away from the Security Council since. So I think China probably learned from that lesson.

Mr. ACKERMAN. Thank you, Mr. Chairman.

Mr. LANTOS. Thank you very much. Congressman Gilman.

Mr. GILMAN. Thank you, Mr. Chairman. This committee is confronted with really three options right now. We have two measures pending. One to admit Taiwan as the Republic of China, the second to admit it as Taiwan, or third, move incrementally, as has been suggested, and not move precipitously, or not move at all.

#### ISSUE OF NAME: TAIWAN VS. REPUBLIC OF CHINA

I am concerned about our moving on Taiwan as Taiwan without the Government of Taiwan, or the Republic of China, indicating to us that they are prepared to move in that manner as Taiwan. Has there been any poll in Taiwan? Have the people expressed their desire? And is the Government of the Republic of China willing to come in as Taiwan?

I understand they are opposed to that kind of an admission to the U.N. I am addressing that, and I hope for very short answers, to any panelist who would like to respond. Mr. Bolton.

Mr. BOLTON. Congressman Gilman, I think the government in Taipei has shown great flexibility on the name question and my assumption is they would show flexibility in terms of U.N. membership. The only thing I would urge is that the name issue not get mixed up in the disagreement over reunification versus independence.

I think a lot of us don't really understand the nuances of this name versus that name or what it means for independence or reunification. That question is for the people of Taiwan to decide. I don't think the United States has any business getting involved in it. That is why I say keep the name issue separate from the debate over——

Mr. GILMAN. How do you do that, Mr. Bolton? It indicates a reunification process that has not been denied, apparently.

Mr. BOLTON. I don't think the symbolism of the name should be a hang up over what U.S. policy should be.

Mr. GILMAN. But that is the reality of the situation.

Mr. BOLTON. I think there has been mentioned 30 or 40 different names for the country. I don't think it is an obstacle. I don't think dispute over the name question should be a surrogate debate for the——

Mr. GILMAN. Let's assume we go ahead with the Torricelli measure which says admission by Taiwan to the U.N. If we go ahead in that direction, are we going to get some resistance from the Republic of China Government?

Mr. BOLTON. I really can't answer that. I think Congressman Solomon's resolution, cosponsored by others, is less ambiguous.

Mr. GILMAN. That is for the Republic of China.

Mr. BOLTON. Right.

Mr. GILMAN. Let me ask any of the experts.

Mr. SEYMOUR. I want to respond to the part of your question concerning public opinion. Taiwan public opinion is overwhelmingly in favor of admission to the U.N., but in something of a contradiction, only a minority supports independence. The reason being that they are afraid of how Beijing would react if Taiwan declared independence.

The question I would like to see put to the Taiwan people, and so far as I know there has never been a poll that asked, "if Beijing had no objections, would you like Taiwan to be an independent country?" It would be very interesting and relevant to know the answer to that question, but we don't.

Mr. LILLEY. Can I make just one point, Representative Gilman? There is nobody that has fought more to improve Taiwan's legitimacy and international status than I have. I want to see Taiwan's position enhanced. Morally and legally, Taiwan has a right to be in the U.N. You can make a compelling argument this is true on the basis of legal and moral arguments.

Your problem is that practically it will not work, and your frontal attack by going after this as a home run is going to set back your other efforts to improve Taiwan's international status. That is my point.

Mr. GILMAN. You have been the advocate of the incremental steps.

Mr. LILLEY. Yes, sir.

Mr. GILMAN. Would any of the other experts want to comment?

Mr. CHIU. I think the main issue is the representation of the 21 million Chinese people in Taiwan in the international organizations. So before you can achieve that goal to discuss the name, I think it is very unrealistic.

Also, in the Torricelli proposal—

Mr. GILMAN. I am sorry, I didn't understand that proposition.

Mr. CHIU. I think it is unrealistic to discuss the name first. I think we should initiate the process of how to resolve this issue.

Mr. LANTOS. If my friend will yield for a second, your approach is unrealistic, Professor Chiu, because you cannot place a proposal before a body, whether this is the Congress of the United States or the United Nations, without referring to an entity by some name. So while it may be an uncomfortable and awkward dilemma, it is a dilemma that needs to be resolved. We can't deal with an issue without naming it.

So the name issue has to be resolved before steps can be taken to deal with the entity represented by a name.

Mr. CHIU. The entity is the Republic of China in Taiwan, which is stated repeatedly by our President. This is also in connection with 21 million people there. And whether the Republic of China in Taiwan should change the name, it will go through the democratic process in Taiwan, the National Assembly. So far the majority are not in favor of outright independence.

Mr. GILMAN. Professor Chen, did you have a comment?

Mr. CHEN. Yes. Dr. Seymour said only a minority is in favor of independence, but those polls are not reliable. In fact, other recent polls taken indicate that more than 85 percent of the people of Taiwan are against "unification" with China.

Look at the situation in Taiwan. Three major TV networks are controlled by the Kuomintang and its governmental apparatus. There is a monopoly. There is no equal, open access by the people. Clearly, when the electronic media of mass communication are no longer monopolized by the Kuomintang and are fair and open, we can then be assured that the genuine wishes of the Taiwanese people will be freely expressed.

Mr. GILMAN. Let me interrupt a moment. I think there is predominant feeling in the Congress of wanting to see an independent Taiwan admitted, whether it be as the Republic of China or Taiwan. But how do we resolve this issue until the Government of the Republic of China has indicated its true feeling of how they want this presented, whether it be the ROC or Taiwan? And how do we get the people's opinion truly represented?

Mr. CHEN. I was making the point that the TV networks should be open, should be fairly accessible to the people, should no longer be monopolized by the ruling KMT party, then, the people's opinion can be truly ascertained and represented. This would render meaningful President Lee teng-hui's dictum that the sovereignty of Taiwan rests upon the people of Taiwan.

Mr. GILMAN. Then shouldn't that be decided internally before it comes to a body of this nature and then goes on to the U.N. and would meet with the kind of opposition that Ambassador Lilley is talking about? Shouldn't we have that decided first before we move ahead?

Mr. CHEN. I think we need to move simultaneously. That is to say, Taiwan's admission to the United Nations requires the support of the United States and other members of the United Nations. In the meantime, the Taiwanese Government and people have their work cut out for them—the governmental policies that are based on the past myths rather than current realities must be changed to reflect realities.

And I think such public discussions as these taking place here today will have a significant impact not only in the United States but also in Taiwan. I think the various concerns expressed here are well taken.

Mr. GILMAN. But getting back to the issue of ambiguity standing in the way of obtaining a realistic disposition of this issue in the United Nations, I would hope that somehow the experts can convince the Republic of China to resolve that issue first so that we can proceed in a unified manner to the United Nations.

Mr. LANTOS. Mr. Bolton has a comment.

Mr. BOLTON. Yes, Congressman Gilman, I don't think there is any question but that the preference of the government in Taipei would be to be known as the Republic of China on Taiwan. I don't think there is any dispute about that.

Mr. GILMAN. There seems to be. Professor Chen is pointing out that the people themselves would prefer to have an independent Taiwan.

Mr. BOLTON. Well, as I say, this gets us into this independence versus reunification debate. But the answer to your question is, what is the preference of the government in Taiwan now, the answer is that the name, the preference of the name is Republic of China on Taiwan. I don't think there is any question about that.



Mr. GILMAN. Mr. Bolton, since you are speaking, let me ask you, if we were to follow your procedure of going back to rejecting the original resolution of declaring—repealing that resolution, where does that put the People's Republic of China—that ousts them from the U.N.

Mr. BOLTON. No, sir, I don't believe it does. I think it could be very easily translated into resolution language, as was the case in 1971 when United States and 18 other countries had a resolution that would have provided for dual representation.

The position of the Republic of China, and again, this could be very easily put into resolution language is, that the People's Republic of China would retain its seat in the United Nations, the People's Republic of China would remain as a permanent member of the Security Council, and that it simply would do what the 1971 dual representation resolution would have done, which is affirm the continued right of representation of the Republic of China.

So this is not in any way leading to an ouster of the PRC or moving the PRC off the Security Council and moving the Republic of China on. It simply gives representation to Taiwan.

Mr. GILMAN. And what is the practicality? How do you see that Resolution being adopted?

Mr. BOLTON. I think it is a hard sell. And I don't underestimate the difficulty of it. But I think the point is that whether or not 140 other governments have recognized Beijing or not, it is a cardinal rule of the United Nations that membership is not equivalent to recognition.

That is the governing principle that allows Israel to sit next to Iraq in the General Assembly. The issue really is the question of whether there is true commitment to the principle of universality and whether after an extensive diplomatic effort in which the United States would have to be a major, major player—

Mr. GILMAN. Mr. Bolton, if that is adopted, and it is the Republic of China that now goes back into the General Assembly, is that going to satisfy all of those millions of people in Taiwan that wanted an independent state of Taiwan in the United Nations?

Mr. BOLTON. I rather doubt it would, but on the other hand I think that is a matter internal to the citizens of Taiwan, for them to decide. It is not really our call.

Mr. GILMAN. Thank you, Mr. Chairman. Dr. Seymour, you wanted to comment?

Mr. SEYMOUR. I think the thrust of Congressman Gilman's remarks, if the U.N. resolution that had the effect of ousting the Republic of China, if you do that, reverse that resolution, the effect would be to reinstate something called the Republic of China, not to reinstate something called the Republic of China on Taiwan.

Mr. LANTOS. But the Resolution could be drafted any way we choose to draft it. We are not frozen into repealing that exact Resolution verbatim. We are free to craft a Resolution to achieve the purposes we seek.

Mr. SEYMOUR. I was just addressing the proposal that was on the floor earlier, to reverse the original Resolution.

Mr. LANTOS. Well, in all fairness to my colleagues who raised that point, I think the intent was to indicate that the reversal goes

to the exclusion of the Republic of China on Taiwan, not the expulsion of the People's Republic.

Mr. LILLEY. May I suggest something, Chairman Lantos? It seems to me you've got formulas that can work. It may not satisfy Dr. Chen's constituency in Taiwan, but again, I am an incrementalist, I like to see things done by practical steps. Of course, the Republic of China on Taiwan would run into a buzz saw with China and you would have direct confrontation.

But having said that, what you can do is use something along the lines of GATT formula—General Agreement on Trade and Tariffs—and I am not saying this is the answer, but it is the sort of creative thinking that leads to a solution. And what we have in GATT is the "customs territory of Taiwan, Pengubu, Chinmen, and Matsu. Maybe this is not perfect, but it is getting the job done.

In ADB, we use "Chinese Taipei." In the Olympics, we use something else. There is always a formula. But if you take PRC on directly, Republic and China on Taiwan, and put it in that new proposition, you will be blocked. You have got to come up with some more creative thinking on this. And I think we have got it into a number of the agreements we have reached with China already. This would have a prayer of getting through the system. That is what we are looking for.

Mr. GILMAN. Mr. Chairman, I want to thank the panelists. You have given us all food for thought. Apparently we are all on the same wave length with what we like to do. It is how best to do it. You have given us a great deal of reasoning and rationale for the various options.

Thank you, Mr. Chairman.

Mr. LANTOS. Thank you very much. I think before I go to Congressman Deutsch, Secretary Bolton wanted to say something.

Mr. BOLTON. One other thing the members of the committee ought to be aware of: Once a country is admitted to the United Nations under whatever name, it is perfectly free to change its name. For instance, there used to be a thing called the Social First Federal Republic of Yugoslavia. It is now simply the Federal Republic of Yugoslavia. There used to be a thing called the Union of Soviet Socialist Republics. The name card in front of the delegation was changed. Nobody's permission was asked, nobody's permission need be asked. So after Taiwan is admitted under whatever name, it can choose to change that name on its discretion.

Mr. LANTOS. Thank you. Congressman Deutsch.

Mr. DEUTSCH. Thank you, Mr. Chairman.

In terms of the government in Taiwan today, have they acknowledged that their claim to mainland China no longer exists? What is the official message that they are giving us today, they are giving the world, and they are giving the Chinese? Is there an official acknowledgment of what their position is in terms of their claim to mainland China?

Mr. CHIU. As I mentioned earlier, the constitution was amended on May 1, 1991, so all the members of the legislature and the National Assembly, which is equivalent to the U.S. Congress, are elected in Taiwan periodically. And also a law was enacted in 1992 involving the relation between the people of Taiwan and the people of the mainland. And in the law it makes clear, the government of

the Republic of China, only Taiwan and Peng-Hu under its effective control. They don't claim to represent mainland China.

Also, in the legislature there are no longer mainland seats. It no longer represents the mainland, only the territories under its effective control. The state of hostilities was terminated by a Presidential proclamation on May 1, 1991. So it is no longer the case that it claims to represent the whole of mainland China.

Mr. DEUTSCH. I am not a diplomat, and I think some of the statements to Chairman Lantos were very useful, even in terms of what you just said, effective control, they are acknowledging the reality. Is that a desire for control? Is the official policy that although effectively they don't control the mainland they want to control the mainland? Is that a position that—

Mr. CHIU. Choose to unify under the democratic principles.

Mr. DEUTSCH. That is still the official policy?

Mr. CHIU. Official policy is for unification of China under a democratic system. And the present government in the 1991 election of the National Assembly won 73 percent of the popular votes and, the ruling party, in December 1992, the legislative election won 53 of the popular vote. So definitely the administration of Taiwan by the Republic of China Government is legitimate under any standard of human rights and democracy.

Mr. LILLEY. There is a whole series of agreements and constitutional arrangements whereby Taiwan as the Republic of China still represents all of China. In the constitution, in the flag, in the anthems. In the kind of indoctrination you get in school, the history you are taught, there is a whole legacy that still persists about Taiwan being part of China and the Republic of China being the legitimate Government of all of China. And that has not been taken out yet.

This is a subject of consternation in Taiwan right now because many of the Taiwanese would like to get these concepts out of there and change the whole background of Taiwan. The downtown states, Sun Yat Sen's three Principles of the People, all these things are linked to China.

Mr. CHEN. I would like to further amplify on the point Ambassador Lilley just made. Certainly a lot has to be done. I don't think the question just asked could be answered by saying there have been amendments to the Constitution of the Republic of China and so on. Actually the Taiwanese people have long challenged, and continue to challenge, the legitimacy of the ROC Constitution, created on the Chinese mainland way back in 1947, and designed to govern the vast territory and huge population of mainland China.

The continuous imposition of that outdated "foreign" Constitution on the Taiwanese people has been a constant source of resentment, friction, and dissent in Taiwan, despite the remarkable progress in democratization and greater power sharing in recent years. The people of Taiwan consider it imperative that a new constitution designed for Taiwan be made if Taiwan is going to pursue a new path.

Thus, for instance, while the ROC's National Assembly was in session in Yangmingshan to consider new amendments to the ROC Constitution, the delegates to "the Second Constitutional Conference of the Taiwanese people" met in June 1994 at the National

Taiwan University to undertake minor revisions to the Draft Constitution of the Republic of Taiwan, originally adopted in August 1991.

I happened to be there. I was pleased and proud to have played an active part in the Second Constitutional Conference of the Taiwanese people. I was very much involved in the chapter relating to the fundamental rights and obligations of the people. And actually, I had the privilege of cochairing the Third Reading Session when all the revisions to the Draft Constitution of the Republic of Taiwan were adopted. The constitution-making efforts of the Taiwanese people signify that Taiwan needs a new constitution that comes to grips with present realities, reflects the shared aspirations of its people, and charts a new path of constitutional democracy for the island nation of Taiwan.

To confuse Taiwan with China in one way or another is creating all kinds of confusion, not only for the Taiwanese people internally, but also internationally. And there are all kinds of contradictions which will take enormous efforts to disentangle. The Kuomintang regime has been overburdened with the legacy of the past myths and past rhetoric. In order to resolve many of the thorny issues facing Taiwan today, it is essential that the Taiwanese people be given effective expression of their will through a public plebiscite.

The bill for a plebiscite (referendum) law has been before the Legislative Yuan in Taiwan. The ruling party (KMT) has been rather ambivalent, but the major opposition part, the Democratic Progressive Party (DPP), has been strongly in support of that.

Mr. LANTOS. We are getting off the subject.

Mr. DEUTSCH. Mr. Chairman, I guess one final—and it will be my final question, again, I open it up to anyone on the panel that wants to discuss it, now I am shifting to the American position. Apparently the Shanghai communique in 1972 specifically talks about a one China policy, and it acknowledges the Chinese position, I am quoting, “acknowledges the Chinese position of one China and that Taiwan is part of China.” I am trying to understand, if the American position on the Shanghai communique is still the policy of the United States of America from the State Department and the administration? Has anything changed? Is that why we are currently in this conflict on planes landing in Hawaii?

Mr. BOLTON. I think the notion of one China remains central to our policy. And I think if you speak with the numbers of people on Taiwan, although they have different views, many of them see U.N. membership as a further step toward unification. Others say it is a step toward independence. So they support the same goal from mutually contradictory ends.

But it seems to me the examples of the two Germanys and the two Koreas do demonstrate that divided countries with two separate governments can have representation. In the case of Germany, it was certainly no impediment to reunification.

Mr. LILLEY. Let me just answer your question, Congressman Deutsch. Yes, the current administration has repeatedly said those three communiques are the basis of our China policy, that that is the Shanghai communique, the normalization communique, and August 1982 communique on arms sales. Let me add quickly that

the August communique on arms sales has not been religiously adhered to.

In other words, a communique is not the final word. It is a framework in which you slug it out.

Mr. DEUTSCH. Thank you, Mr. Chairman.

Mr. LANTOS. Congressman Ackerman.

Mr. ACKERMAN. Thank you very much, Mr. Lantos. Let me say this has been one of the most enlightening panels that we have ever had before either of our subcommittees, I believe. And we are indebted to each and every one of you for the light that you have shed, the opinions that you have shared with us on this difficult subject.

It is, I suppose, easier to theorize and philosophize on some of these issues because you can put an awful lot of caveats, ifs, ands or buts in between statements. But we are confronted with the possibility at least of voting on specific pieces of legislation or resolutions. So the question I would have, what would be your advice to us concerning voting on some kind of resolutions that would give some kind of status to the entity known as Taiwan in the United Nations?

Should we not consider such a resolution at this time? Should we consider an incremental approach, and we as a body urge the admission of Taiwan into several of various U.N. agencies and other international organizations? Should we do that only if Taiwan applies under an acceptable and noncontroversial name, or should we urge under any set of circumstances and conditions the admission, full admission of Taiwan into the U.N. regardless of what it decides it wants to be called?

It is a long question. Maybe this time we can get a short answer.

Mr. LILLEY. I would say that I have the greatest respect for Congressman Solomon and I have worked with him in many cases, but I think in this case the Torricelli resolution best serves the state's interests and best advances Taiwan's cause.

Mr. ACKERMAN. Let me just call to your attention—I appreciate that, not meaning to dissuade you in any way, but we also, as Chairman Lantos pointed out, have the option of any new resolution that we might want to fashion, phrase, or submit. So the full range of possibilities as far as your suggestions exists. It is not a matter of picking or choosing from the existing ones, although there are some fine resolutions before us at present.

Mr. LILLEY. I would say as a matter of principle, yes, but then I think you have to deal with the whole thing more practically in terms of terminology.

Mr. BOLTON. Without getting into an—

Mr. ACKERMAN. Yes, we should?

Mr. LILLEY. You should have a Resolution that would support this in principle, but you should work very hard in getting the correct terminology to get it to be successful.

Mr. BOLTON. Without getting into an extended discussion on the separation of powers, I think Congress' role here can be very useful in setting what the ultimate goal is, and letting the State Department and the Government of Taiwan work out tactically how to get from here to there.

I would favor something like Congressman Solomon's resolution. I think it states the ultimate goal unequivocally. That is the best kind of signal Congress can send.

Mr. CHIU. I support Mr. Torricelli's resolution. I also support Congressman Solomon's resolution. However, he only says United Nations and I would also add "other international organizations or agencies." One problem for Torricelli's resolution is it is still claiming that Taiwan claim to represent the mainland China, which is no longer the case.

Mr. SEYMOUR. The Solomon resolution would be a mistake, because it perpetuates the Republic of China myth, which is at the center of the problem.

As for the Torricelli amendment, it is premature, that the Taiwan Government has to take the lead on something like this and we have to follow.

Mr. CHEN. I think it is about time for the United States to act on it, and it is important for the House to act on it, and I would favor Congressman Torricelli's resolution. The 21 million people of Taiwan should be represented in the United Nations and other international governmental organizations, and this resolution reflects our shared concern for the people of Taiwan and the future of the United Nations.

Mr. ACKERMAN. Thank you. Thank you all very much. Chairman Lantos, I have no further questions.

The members of my subcommittee obviously have no further questions. Let me express my appreciation to the panel for their superb contribution and participation and express my gratitude once again for being able to work and cooperate with you.

Mr. LANTOS. I certainly echo that. It is always a pleasure. I want to thank all five excellent witnesses. This hearing is adjourned.

[Whereupon, at 12:55 p.m., the subcommittees were adjourned.]

# **A P P E N D I X**

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## **SHOULD TAIWAN BE ADMITTED TO THE UNITED NATIONS?**

**JULY 14, 1994**

**THE HONORABLE TOM LANTOS**

The Subcommittee on International Security, International Organizations, and Human Rights and the Subcommittee on Asia and the Pacific are convening today to discuss the complex question of whether Taiwan should be admitted to the United Nations.

As of August 1, 1993, 184 states were represented in the General Assembly, and I would hazard a guess that the names of some of them might be unfamiliar or perhaps even unknown to some of you. How many of you, for example, can immediately place Barbuda, Comoros, Vanautu, or Saint Vincent and the Grenadines.

I do not mean to denigrate these countries or to suggest that they do not belong in the United Nations; rather, I mean only to illustrate the degree to which the current UN membership reflects the world's political landscape. This is fitting because UN membership is based on the principle of universality, and the organization is, in fact, enriched by the widest participation possible.

Indeed, even the Holy See has permanent observer status as do several international organizations, including, among others, the Commonwealth Secretariat, the Asian-African Legal Consultative Committee, and the Latin American Economic System. And the Palestine Liberation Organization was invited in 1974 to attend UN General Assembly sessions and international conferences.

I personally question the wisdom of giving the PLO observer status at the UN, and others may have their doubts about different groups with observer status. However, they were granted observer status by the will of the majority of the UN membership, and so there they are. But isn't it curious, then, that a country of twenty-one million people that is both a model for emerging democracies and an economic powerhouse should be excluded from a UN membership that includes such luminaries as Iran, Iraq, Sudan, Cuba, Libya, and North Korea? I speak, of course, of Taiwan, which as a result of an infamous act of Chinese legerdemain, lost its seat at the UN to the Peoples Republic of China in 1971.

Let me say at the outset that I realize there is debate among the citizens of Taiwan regarding whether the correct name of their country is the Republic of China on Taiwan or simply Taiwan. Our purpose today is not to get bogged down in partisan debate, but, rather, to address the pragmatic question of how we can promote Taiwan's participation in the international system in a manner that benefits both Taiwan and the international community. Today I will use the name Taiwan, which is more familiar to the U.S. public.

The statistics are impressive: Taiwan's population is greater than that of three-quarters of the countries in the UN. Taiwan has the 25th highest per capita income in the world, the 20th largest gross national product, and the world's second largest holding of foreign currency reserves. In fact, the total foreign currency reserves of all of the countries of the former Soviet Union, including Russia, are but a small fraction of Taiwan's \$80 billion dollars. Taiwan also has the fourteenth largest volume of global trade and ranks seventh in overseas investment.



So how can one explain the absence of this country, which has governed itself for more than 50 years, from an organization that includes so many other newly independent states that play a much smaller role in the international system? Quite simply it is one of the cruel relics of the Cold War that has yet to be swept away. Although in the last five years we have witnessed the dismantlement of most of the tragic anomalies of that era, some old wounds still fester, such as Fidel Castro's vicious rule in Cuba, the tense stand-off on the Korean peninsula, and the PRC's claim to Taiwan, which casts a shadow over that country's otherwise bright future.

The resolution of Cuba and North Korea's difficulties unfortunately still awaits a future day, but Taiwan's ambiguous identity seems increasingly anachronistic in this day and age when former Soviet satellites, ranging from East Germany to Uzbekistan, have proudly assumed seats in the UN and other international bodies.

Taiwan, however, is excluded from the UN because the Peoples Republic of China, one of the five permanent members of the Security Council and thus a possessor of the veto, is adamant in its opposition to Taiwan's admission, and the rest of the UN membership, including the United States, is unwilling to challenge the Chinese on this issue.

Taiwan's exclusion cannot be justified in terms of international law as Taiwan more than meets the traditional criteria of statehood. Nor would granting Taiwan UN representation in any way prejudice the resolution of Taiwan's ultimate status. The two Germanys reunified, although both had seats in the UN, and so could China and Taiwan at some

future date, if that were the wish of both nations. Thus, Taiwan's continued absence from the UN can only be seen for what it is: a flagrant exercise in intimidation, the flexing of raw political muscle by an obstructionist power.

The rest of the world, most of which quietly acknowledges the validity of Taiwan's membership effort, will not offer concrete support because they fear losing the trade and investment opportunities present in the rapidly modernizing PRC or they worry about losing PRC support for important regional and global initiatives such as the protection of intellectual property, non-proliferation of conventional and nuclear weapons, and reigning in rogue regimes like Iraq and North Korea.

While I do not wish to see the advancement of these important endeavors endangered, I think the greater risk stems from the international community's unwillingness to confront the PRC on an issue where it is clearly in the wrong and acting against the interests and values of the international community. I also think the PRC will do whatever it wishes in those areas, based on its assessment of its self-interest. Moreover, the Chinese leadership seems to view concessions from the West more as a sign of weakness than flexibility. As evidence of this, I would offer the recent MFN debacle. It cannot be said that the PRC has not shown any greater willingness to play a constructive role in the international system since the President's decision to renew MFN for China.

Finally, on a practical note, apart from its UN Security Council seat, the PRC plays a minor role in the UN. It is not active in the General Assembly or the specialized agencies,

and its parsimony is legendary: in 1991 its total contribution to the UN amounted to \$7.83 million. In 1994, China will pay a niggardly 0.77% of the UN regular budget whereas Taiwan was paying 4% of the UN budget in 1971 when the General Assembly acted to strip it of its membership. So, China has no moral right to exclude from the UN a country that has such extensive technical expertise and financial support to offer.

Moreover, there is a significant cost to the U.S. taxpayer as a result of Taiwan's exclusion from the UN. Let us not forget that Taiwan's GDP greatly surpasses that of many Western European countries, including Sweden and Switzerland. Because assessment rates for the UN regular budget and peacekeeping are derived from a painfully intricate formula, it would be difficult to calculate Taiwan's fixed UN contributions, but it is obvious that a country as prosperous as Taiwan could give enormous financial support to the UN and its specialized agencies. One should note that many of the specialized agencies receive much of their funding from voluntary contributions, and Taiwan has already established an impressive track record on development assistance through its International Economic Cooperation and Development Fund.

I am pleased to welcome our distinguished witnesses, who will help us to shed light on this difficult subject. They are: Ambassador James Lilley, U.S. Ambassador to the PRC during the Bush Administration; the Honorable John Bolton, Assistant Secretary of State for International Organizations during the Bush Administration; Professor Hungdah Chiu, School of Law at the University of Maryland; Dr. James D. Seymour, Senior Research Scholar at Columbia University's East Asian Institute, and Lung-chu Chen, Professor of Law, New York Law School.

Before turning to you for your opening statements, I would like to ask my colleague from Nebraska, Doug Bereuter, the ranking member of the Subcommittee, if he would care to make any opening remarks.

STATEMENT OF REP. GARY L. ACKERMAN  
CHAIRMAN  
SUBCOMMITTEE ON ASIA AND THE PACIFIC  
REGARDING TAIWAN'S PARTICIPATION  
IN THE UNITED NATIONS

THANK YOU CHAIRMAN LANTOS. IT IS A PLEASURE TO JOIN OUR TWO SUBCOMMITTEES TODAY FOR THE PURPOSE OF STUDYING THIS EXTREMELY IMPORTANT ISSUE. I WOULD LIKE TO COMMEND CHAIRMAN LANTOS FOR HIS LEADERSHIP ON THIS, AND TO INDICATE, FOR THE RECORD, THAT IT IS A PLEASURE TO WORK WITH MY GOOD FRIEND FROM CALIFORNIA ON SO MANY OTHER ISSUES OF MUTUAL CONCERN.

TAIWAN'S FUTURE IS INEXTRICABLY LINKED TO U.S. INTERESTS IN ASIA. TODAY, THE UNITED STATES IS TAIWAN'S PRINCIPAL FOREIGN INVESTOR AND U.S. MARKETS RECEIVE ROUGHLY 25% OF TAIWAN'S EXPORTS.

BUT WE HAVE FAR MORE THAN ECONOMIC TIES TO TAIWAN. THOUSANDS OF CHINESE HAVE COME FROM TAIWAN TO STUDY IN THE STATES. MANY HAVE STAYED AND ARE EXTRAORDINARILY SUCCESSFUL. I KNOW THIS, FOR A FACT BECAUSE I HAVE A GREAT NUMBER OF CHINESE AMERICANS IN MY DISTRICT. OTHERS HAVE RETURNED TO TAIWAN AND NOW PLAY CRUCIAL ROLES IN GOVERNMENT AND INDUSTRY.

WE ALSO HAVE THOUSANDS OF AMERICANS WHO VISIT TAIWAN, WHO LIVE IN TAIWAN, AND WHO HAVE STUDIED THE CHINESE LANGUAGE AND CUSTOMS OF ASIA THERE. TAIWAN'S PROSPERITY IS IN THE ENDURING INTEREST OF OUR OWN NATION.

TAIWAN IS UNQUESTIONABLY ONE OF OUR MOST IMPORTANT PARTNERS IN ASIA, AND THERE IS NO DOUBT IN MY MIND THAT TAIWAN CAN PLAY AN IMPORTANT ROLE IN THE UNITED NATIONS. MANY ARGUE THAT TAIWAN'S PARTICIPATION IN THE UNITED NATIONS WILL NOT SIMPLY BENEFIT THE UNITED STATES, BUT WILL BENEFIT THE ENTIRE INTERNATIONAL COMMUNITY. OTHERS BELIEVE THAT PUSHING UN MEMBERSHIP FOR TAIWAN IS TOO PROVOCATIVE AND MAY BE COUNTERPRODUCTIVE FOR BOTH OUR NATION AND TAIWAN.

WE ALL KNOW THAT THERE ARE OBSTACLES AND COMPLICATIONS TO TAIWAN'S UN PARTICIPATION. WE ALSO KNOW THAT OUR FRIENDS IN THE PEOPLE'S REPUBLIC OF CHINA WOULD NOT BE VERY HAPPY ABOUT SUCH A DEVELOPMENT AND THAT ADDING COMPLICATIONS TO THE ALREADY COMPLEX STATE OF SINO-U.S. RELATIONS MIGHT NOT BE WELCOME BY SOME, PARTICULARLY IN OUR STATE DEPARTMENT.

LET ME SAY THAT THIS MEMBER IS ACUTELY AWARE OF JUST HOW IMPORTANT OUR RELATIONSHIP WITH THE PRC IS, AND WE MUST RESPECT THAT RELATIONSHIP. BUT WE ALSO MUST FACE REALITY. AND THAT REALITY IS THAT TAIWAN IS AN ECONOMIC GOLIATH AND THE

INTERRELATIONSHIP AND INTERDEPENDENCY BETWEEN THE COMMUNITY OF NATIONS AND TAIWAN WILL ONLY GROW MORE IMPORTANT AS TIME GOES ON.

TODAY WE WILL FOCUS ON THE CONCEPT OF TAIWAN'S POTENTIAL UN MEMBERSHIP, THE MODALITY AS WELL AS FEASIBILITY OF SUCH MEMBERSHIP, AS WELL AS THE RISKS OF SUCH AN IMPORTANT STEP.

THIS HEARING IS NOT INTENDED TO STAKE OUT A POSITION ON THE NAME TAIWAN MAY EVENTUALLY WISH TO USE, SHOULD IT BE PERMITTED TO JOIN THE UNITED NATIONS. SUCH QUESTIONS ARE BEST LEFT UP TO THE PEOPLE OF TAIWAN. TO SHARE THEIR VIEWS ON SOME OF THE ISSUES I'VE JUST RAISED, WE HAVE A DISTINGUISHED PANEL OF EXPERTS. I LOOK FORWARD TO THEIR TESTIMONY.

OPENING STATEMENT OF  
CONGRESSMAN ROBERT G. TORRICELLI  
UN MEMBERSHIP FOR TAIWAN

I would like to take this opportunity to thank Chairman Lantos and Chairman Ackerman for convening this important hearing.

I have sponsored House Concurrent Resolution 166, which expresses the Sense of the Congress that the 21 million people of Taiwan deserve representation in the United Nations.

This resolution enjoys wide, bi-partisan support from 65 cosponsors, including 10 of my colleagues on the Foreign Affairs Committee. I am especially pleased that this hearing has been convened to further examine the issue and my resolution.

At the end of the second World War, the Chinese countryside erupted in civil war between the nationalist forces led by Chang Kai-Shek and communist forces led by Mao Tse-tung.

After their defeat, the Nationalist Kuomintang forces fled to the neighboring island of Taiwan. The KMT viewed this as a temporary existence and maintained that one day they would return to the mainland as its rightful government.

Initially, the United States and other nations agreed that this was only a temporary situation. The United States considered Mao's forces to be nothing more than a temporary occupation force which had illegally seized control of China. Consequently, the China seat in the United Nations remained in the hands of the Nationalist government now situated on the island of Taiwan.

However, over time, the situation became more complicated as it became apparent that Mao's forces were more than a temporary phenomenon. The People's Republic of China was emerging as a strong counterbalance to the then Soviet Union and an important force in international relations.

In 1971, at the height of the Cold War, the United States initiated relations with the Beijing regime and supported the transfer of the "China" seat at the United Nations from Taipei to Beijing. Concurrently, the United States also broke off official diplomatic relations with the KMT government in Taipei.

Since that time, the people of Taiwan have gone without representation at the UN. However, they have not sat idle, but have established themselves as an economic world powerhouse.

Taiwan ranks 2nd in the World in foreign reserves, is the 14th largest trading-nation in the world, and has a GNP that ranks in the top 20 internationally.

Taiwan is currently a member of the Asian Development Bank, the Pacific Economic Cooperation Council, the Pacific Basin Economic Council, and the Asia Pacific Economic Cooperation Forum. Taiwan is a leading donor of economic assistance and aid to third world nations. Taiwan is the 6th largest trading partner of the United States and receives significant amounts of advanced weaponry from this country.

My resolution, unlike similar resolutions before this Committee, does not dwell on the issue of reunification or of who is properly entitled to the "China" seat. The "one China" policy that has prevented the U.S. from recognizing Taiwan should not be settled at this forum.

This hearing and my resolution are simply about whether the people of Taiwan deserve representation in the United Nations. I believe they do, and I do not believe that their representation should be stifled because a process cannot be settled upon.



As I stated earlier, my resolution enjoys a broad range of support from Republicans and Democrats, as well as from opposition groups within the Taiwanese government. It is even welcomed by the KMT party. It merely states that these people are not represented and they should be.

Last month, the Senate passed a resolution by Senator Simon which called on the President to encourage the United Nations to permit representatives of Taiwan to participate fully in its activities.

Participation in the United Nations is important to the people of Taiwan and to the United States. I commend the Senate for taking this action and am confident that this Committee and the House of Representatives will follow suit and pass House Concurrent Resolution 166.

Again, thank you for holding this hearing and I look forward to hearing our witnesses.

OPENING STATEMENT  
THE HONORABLE CHRISTOPHER H. SMITH  
SUBCOMMITTEE ON INTERNATIONAL SECURITY,  
INTERNATIONAL ORGANIZATIONS AND HUMAN RIGHTS  
SHOULD TAIWAN BE ADMITTED TO THE UNITED NATIONS?  
JULY 14, 1994

Mr. Chairman, thank you for the opportunity to discuss this important issue. Taiwan has not been represented at the United Nations since 1971 when it was replaced as the sole representative of China by the People's Republic of China.

However, much has changed in Taiwan, and globally, since 1971. According to many reports, including our own Department of State's Country Reports for 1993, Taiwan has made great progress -- politically, economically and socially. Democratic reforms, including multiparty elections, have ensured greater representation of all peoples. Free and fair local elections were held late last year. The military has moved toward greater political neutrality and the law enforcement is under the control of civilian police agencies. Restrictions on political dissidents and greater freedom of press and media have also added to Taiwan's growing list of freedoms and democratization. Taiwan's free market economy makes it a major international player, ranked 20th in terms of GNP. According to one expert, Dr. Hendrick Spruyt of Columbia University, Taiwan has "helped lead the explosive growth of all the East Asian countries."

Currently, 28 countries maintain diplomatic ties with Taiwan and although they have been included in some international organizations (APEC and the Asian Development Bank)

the 21 million people living on Taiwan have no voice at the United Nations. Even our own nation, with all of the economic and trade ties, does not have official ties with Taiwan.

In contrast, The People's Republic of China, which has representation in the United Nations and official diplomatic ties with the U.S., has continued on a course which suppresses political dissent, tightly controls the press and media, violates almost every international standard for human rights, and refuses to cooperate with the international community in areas of global security. Every human rights report issued about China lists it as one of the most egregious violators of human rights in the world today. Many of its population control policies and eugenics laws have been compared to policies and laws enacted by the Nazi's in Germany.

In May, President Clinton reversed his China policy and without apology to the millions of victims of the People's Republic of China's prison-labor camps, forced abortion and sterilization policies, restrictive religious laws, and other forms of repression, rewarded the dictators with MFN.

It is amazing that forces directly opposed to the values and ideals of our nation are rewarded while those who are victimized for their support of freedom, human rights and democracy are silenced.

Mr. Chairman, Taiwan has made great strides in democratic reform and in protecting

the rights of its people. Yes, the reform process is far from over, but Taiwan is moving in the right direction. Dr. Parris Chang, co-chairman of the Foreign Affairs Committee of the Yuan and a member of an opposition party, speaking in New York last year, said that Taiwan is seeking membership in the U.N. "to show the world that Taiwan cares. We don't just want a seat in the United Nations, but we want to be able to contribute to the peace and well being of the world."

Mr. Chairman, I am a cosponsor of H. Con. Res. 166 expressing the sense of the Congress that Taiwan be represented in the United Nations. The government of Taiwan is moving toward protecting the rights of its people and ensuring that they have a greater voice in their own nation. Just as they are leaders in the economic growth of Asia, with representation in the United Nations Taiwan could also become a leader in promoting human rights and democratic reform globally, as well.

I would like to thank our witnesses here today. Their experience and knowledge will add to our understanding and enhance our dialogue.

Should Taiwan be admitted to the United Nations?  
Subcommittees on Asia and the Pacific & Int'l Security  
Cong. Luis V. Gutierrez  
July 14, 1994

I commend Chairmen Ackerman and Lantos for calling this important hearing today. I look forward to hearing the presentations of our distinguished witnesses on this challenging issue.

If only policies guiding foreign affairs were black and white, with definitive litmus tests and guidelines to be met. Rather, policies necessarily involve many shades of gray. For me, the question of Taiwan's admittance to the United Nations reflects those varied shades. It is a complex issue that does not lend itself to a simple answer.

I think my colleagues will agree that Taiwan meets the unofficial guidelines that govern admittance to the UN. Yet, there are numerous factors and consequences to be considered before an endorsement of admittance is offered. Historic, ethnic and territorial considerations as well as current economic and global security realities require thoughtful and thorough attention.

My uncertainty seems to at times reflect a history of indecisiveness that has afflicted U.S.- Taiwan relations. In 1979 the U.S. broke formal diplomatic and military ties with Taiwan in favor of the Peoples Republic of China. Later that year, we re-established unofficial relations through the Taiwan Relations Act and continued arms supplies, while stating our support for a peaceful resolution of the Taiwan issue between the

Chinese themselves. In another seeming reversal of policy, and to the distinct displeasure of the PRC, the Bush administration authorized the sale of 150 F-16 fighter jets and sent a cabinet-level official to Taiwan for the first time since ending recognition. Finally, coming full circle, our new administration has affirmed its position of a "One China" policy.

These varied policies attest to the complexity and fluidity of ongoing relations in Asia. Perhaps U.S.-Taiwan relations are due a more thoughtful and thorough evaluation before we move to offer Taiwan our support. The consequences of backing UN admittance as well as ethnic and historical claims require full and comprehensive consideration.

Again, Mr. Ackerman and Mr. Lantos I applaud you for convening this hearing. I am eager to hear the testimony of our distinguished guests and the additional perspectives I sure they will provide on this complicated subject.

PETER DEUTSCH  
20TH DISTRICT FLORIDA

COMMITTEE ON FOREIGN AFFAIRS

SUBCOMMITTEE ON EUROPE AND  
THE MIDDLE EAST  
SUBCOMMITTEE ON WESTERN HEMISPHERE AFFAIRS

COMMITTEE ON BANKING FINANCE  
AND URBAN AFFAIRS

SUBCOMMITTEE ON FINANCIAL INSTITUTIONS  
SUPERVISION REGULATION AND DEPOSIT INSURANCE  
SUBCOMMITTEE ON HOUSING  
AND COMMUNITY DEVELOPMENT  
SUBCOMMITTEE ON CONSUMER CREDIT  
AND INSURANCE

COMMITTEE ON MERCHANT MARINE  
AND FISHERIES

**Congress of the United States**  
**House of Representatives**  
**Washington, DC 20515-0920**

**STATEMENT OF CONGRESSMAN PETER DEUTSCH**  
**REGARDING UN MEMBERSHIP FOR TAIWAN**

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Taiwan, also known as the Republic of China, has become a true economic power on the world stage. As the world's 14th largest trading nation and the largest holder of foreign currency reserves, Taiwan has passed the point of being a "developing nation" and now wishes to be recognized for its status as a mature industrial power. [It is America's sixth largest trading partner, wields enormous purchasing power, and maintains a vast exporting empire. Taiwan is the only country in Asia to lower its trade deficit with the United States. My home state of Florida has exported almost half a billion dollars worth of goods to Taiwan over the past three years.

Taiwan's bid for a seat at the United Nations has been widely supported by the American people and the U.S. Congress. Currently, sixteen states and territories have passed resolutions in support of U.N. representation for the people of Taiwan. Furthermore, Congress currently has before it three resolutions which support U.N. membership. While the language in each resolution is different, the fact that these measures have garnered a total of more than 130 co-sponsors shows that there is overwhelming support for Taiwan's UN membership.

The biggest obstacle to Taiwan's U.N. membership remains the People's Republic of China. While existing in the shadow of the PRC since 1971, Taiwan has still managed to participate in the Asian Development Bank, Asia Pacific Economic Cooperation, and General Agreement on Tariffs and Trade. Although Mainland China has initially protested these actions, there have been no subsequent reprisals. This trend leads to hope that Taiwan's international participation will soon include a voice in the United Nations.

I believe there is an immediate need to examine this issue because of the 21 million people who go unrepresented in the U.N. I want to commend my colleagues, Chairmen Ackerman and Lantos for organizing this hearing and giving this issue the attention it deserves.

TO: HON. DAN BURTON  
 RE: SUBCOMMITTEE ON ASIA AND PACIFIC AFFAIRS &  
 SUBCOMMITTEE ON INTERNATIONAL SECURITY, INTERNATIONAL ORGANIZATIONS AND  
 HUMAN RIGHTS  
 JOINT MEETING ON "SHOULD TAIWAN BE ADMITTED TO THE UNITED NATIONS?"  
 TM: JULY 14, 1994, 10:00 A.M.  
 PL: 2172 RAYBURN BLDG.

•I would like to commend the Chairman of both subcommittees for holding this hearing today on this important topic.

•Since I will not be able to stay for the entire hearing, I would like to make my opinion about whether Taiwan should be admitted to the United Nations known in a brief opening statement.

•The Republic of China was one of the founding members of the United Nations in 1945. On January 1, 1979, the United States switched diplomatic recognition from the Republic of China on Taiwan to the People's Republic of China on mainland China.

•I opposed this move, and I support 110 percent all efforts to return the Republic of China on Taiwan to the United Nations.

•Several resolutions have been introduced in the 103rd Congress which address the issue of whether Taiwan should be admitted to the United Nations.

•Two that will probably be discussed today are H. Con. Res., 148, introduced by Rep. Gerald Solomon, and H. Con. Res. 166, introduced by Rep. Robert Torricelli.

•Rep. Solomon's says in the *resolved clause* that "the Republic of China on Taiwan deserves full participation, including a seat, in the United Nations."

•In contrast, Rep. Torricelli's says in the *resolved clause* that "the 21,000,000 people on Taiwan should be represented in the United Nations."

•While I support all efforts which seek to give the Republic of China on Taiwan a voice at the U.N., I believe that Mr. Solomon's resolution is the best approach.

•The Solomon resolution specifically asks for a seat at the United Nations which would also give Taiwan a vote.

•The Torricelli resolution calls only for representation. It does



not ask for a seat.

•By not specifically asking for a seat at the United Nations in the resolution, the House could mistakenly create the impression that it supports other types of representation at the U.N. for the Republic of China.

•Mr. Solomon cites “the Republic of China” in his resolution, while Mr. Torricelli refers only to “the people of Taiwan.”

•There is no reason not to admit the Republic of China on Taiwan to the U.N. under its official government name -- the Republic of China.

•The “Korea formula” for U.N. participation should be noted here. Currently, South Korea is recognized in the U.N. as the “the Republic of Korea,” while North Korea is recognized as “the Democratic People’s Republic of Korea.” Both seek eventual re-unification.

•The Republic of China on Taiwan deserves equal treatment.

•In addition, by not referring to the government’s proper name we could mistakenly appear to be supporting those groups in Taiwan which advocate independence.

•Real support for independence in Taiwan is hard to accurately assess. Like other issues, support for independence probably goes up and down depending on the current political climate in Taiwan.

•Who knows what the people of Taiwan will want if the day ever comes when re-unification with the mainland is a real possibility.

•We should not inadvertently get involved with this controversial issue. Our first priority should be to get the Republic of China a voting seat at the United Nations.

•Furthermore, Communist China has on numerous occasions

made known its absolute opposition to any initiatives towards independence on Taiwan, and it has said it will put down such moves with military force.

•While Communist China will probably oppose both resolutions, I believe there is a small chance that they would allow the Republic of China on Taiwan to rejoin the U.N. under "the Korea formula."

•I hope and urge our two Subcommittees to come together and back the Solomon resolution or another one that specifically asks for a seat at the U.N. for the Republic of China.

## PREPARED STATEMENT OF HON. EDWARD R. ROYCE

Mr. Chairman: I thank you very much for conveying this hearing today. I have the greatest respect for your work—both here on this subcommittee, and in the Human Rights Causus—to broaden the community of free and democratic nations around the world.

I believe strongly that the 21 million people of Taiwan deserve to be heard, and seen, and fully welcomed into the community of nations. The reasons are moral as well as pragmatic, and they are fully consistent with American values and ideals.

Taiwan has made great strides in terms of both economic and political pluralism, and in increasing the scope of human rights and personal freedoms for its 21 million people.

They now enjoy a higher degree of liberty and prosperity than the vast majority of their neighbors. Their economy ranks in the world's top 20. Taiwan is our 5th largest trading partner and indeed, U.S. exports to Taiwan are double those of our exports to China.

I think that for this progress alone they should be granted the diplomatic and institutional recognition they seek. But I think it is even more pressing for two other related reasons.

To signal those who are moving toward open political and economic systems, that they can expect to be rewarded for their progress, not ignored; and

To signal to the People's Republic of China on the Mainland, that we are extremely distressed by their human rights performance.

It seems clear to me that anything short of full recognition and unconditional sovereign state status at the U.N. really only amounts to some sort of a ruse.

We do democracy in China— and democrats in China—no favors by devaluing democrats in Taiwan

It is my sincere hope that as Taiwan's democratic and market system continues to evolve, it will serve effectively as a model for the other Chinese society across the straits; and that, at the sametime, Taiwan's participation in the community of nations will be increased.

Thank you Mr. Chairman.

TESTIMONY OF  
AMBASSADOR JAMES R. LILLEY  
ON  
IMPLICATIONS OF TAIWAN'S BID FOR UN ON US-PRC RELATIONS, US-  
TAIWAN RELATIONS AND PRC-TAIWAN RELATIONS

BEFORE  
THE SUBCOMMITTEE ON INTERNATIONAL SECURITY,  
INTERNATIONAL  
ORGANIZATIONS AND HUMAN RIGHTS  
AND  
THE SUBCOMMITTEE ON ASIA AND PACIFIC

Mr. Chairman, members of the committee, my name is James Lilley. I am the director of Asian Studies Department at American Enterprise Institute, and I was the second director of American Institute in Taiwan from 1982 to 1984, and Ambassador to the People's Republic of China from 1989 to 1991. I thank you, Mr. Chairman and the committee, for the opportunity today to offer you my views regarding Taiwan's bid for UN representation.

My opinion is that Taiwan indeed has met the objective standards of UN, and the Chinese on Taiwan have many compelling reasons to want to participate in this international organization; However, there are important reasons to question such entry at the present time; Moreover, if we the United States advance Taiwan's bid, extreme responses may be produced on both sides of the Taiwan strait, which may not be helpful in our efforts to maintain the stability in that region; But proper efforts should be made to help Taiwan join various governmental and non-governmental international organizations, so that Taiwan can play greater role in international affairs as they deserve, and prepare for the future participation in UN. My recommendation for the present time is that we should resume the dual-track policy-- while keeping the normal relationship with the PRC, we further develop our unofficial relationship with Taiwan, and help Taiwan with its participation in international activities and various organizations. In the following four parts, let me illustrate my opinion, looking objectively at the differing rationales.

I. Taiwan is qualified for UN representation

The development of the Republic of China on Taiwan has been a remarkable story. As a real political, economic, and social entity--or rather, as a *de facto* sovereign and autonomous country--we have seen Taiwan transform itself in these past decades. The various statistics speak for themselves, and they all give ample justification for R.O.C.'s entry back into the UN: (Statistics come from Bureau of Statistics, DGBAS)

1. Taiwan's (R.O.C.) GNP ranks 20th in the world at over \$210 billion. Moreover, it ranks 25th in the world for Per Capita Income, at over \$10,000/year.
2. With a population of 21 million people, its population is greater than 3/4 of the members of the U.N. today.
3. As the 14th largest trading nation in the world, import/export totals exceed \$153 billion. Along with this participation in international trade, the country holds the world's first or second largest foreign exchange reserves. (Here, it competes with Japan.)

From these major indicators, it is clear that the Republic of China plays a major role in the global economy which merits recognition by the U.N. If we look even more closely at Taiwan's role in the international community, we see even stronger evidence.

4. It ranks 9th in the world in total overseas investment, and it is Asia's second largest foreign investor.
5. It has sent over 10,000 experts to train technicians in developing nations all across the world—from Asia and the South Pacific to Latin America and Africa—helping to develop their agriculture, fisheries, and livestock industries.
6. It has also provided over \$117 million in disaster relief throughout the world in the past five years, and even contributed indirectly to the U.N.'s call for aid during the Persian Gulf War, donating more than \$32 million to a relief fund.

This information indicates why ROC deserves re-entry into the UN. Consider the more broad ranging reasons, those that affect not just Taiwan, but the whole world:

1. Despite being a major participant in the global economy, Taiwan is unable to carry out its responsibilities in the subsidiary organizations of the U.N. due to lack of membership. For example, despite its large supply of reserves, it no longer participates in the World Bank or International Monetary Fund (IMF).
2. On the one hand, there is constant talk about the miraculous development in Taiwan, and how they can be a model for other developing nations, but on the other hand, the U.N. subsequently denies them the right to formally share their model with the international community.
3. In addition, as a developed nation, R.O.C. is still unable to share the burden or input into decisions pertaining to Sea Lanes, Emergency Relief and Environmental Protocols, as well as other important areas.

ROC meets the international legal standards of a being a state. It was a founding member of the UN back in 1945. Indeed, the necessity of obtaining visas for travel between the Mainland and Taiwan is one example which would indicate that both sides are presently separate entities. The PRC does not represent the people on the island of Taiwan.

## II. Timing is important, and patience is needed

Having discussed Taiwan's qualifications for entry into the UN, we must also consider the "other side of the coin." Regardless of all the positive reasons I have laid out, how realistic is such a goal under the present conditions? Prior to deliberating on US's interests and concerns, we must take a look at the interests and concerns of the PRC in this debate. Simply speaking, the PRC will not accept Taiwan's entry into the UN, and in essence, the very notion of such prospect may very well end there. The PRC holds a permanent seat on the Security Council, albeit one originally given to the ROC, and they carry a veto power that is quite significant.

According to article 4, Section 2 of the UN Charter: "The admission of any such state to membership in the United Nations will be effected by a decision of the General Assembly upon the recommendation of the Security Council." So long as China chooses to exercise its veto power, all efforts to push for Taiwan's entry into the U.N. become futile. As long as PRC views ROC's entry into the UN as an attempt to split up "One China," they will exercise that veto. Regardless of the *de facto* state status that the ROC has achieved, the broad understanding of the international community is that there is only "One China." In this respect, the 29 countries that do recognize the ROC are a small minority and they cannot produce the 2/3 majority needed to even accept an application. Under present conditions--namely the position taken by the PRC--the US would be ignoring our agreement to observing "One China" as stated in the Shanghai Communiqué.

Therefore, under the presently outlined circumstances, and despite the many important reasons for Taiwan's full entry into the UN, PRC's veto powers, as a permanent member of the Security Council, makes such prospects very unlikely. This is not to say, however, that prospects for future entry do not exist, or perhaps, alternative means to accommodate the ROC's desires also be considered.

Presently, as a permanent member of the Security Council, the PRC will for certain use all efforts to stop ROC's entry into the UN--either through pressure on the other members or its veto power. In this respect, it successfully blocked last year's attempt by the Central American countries to bring up the draft resolution which merely called into consideration the issue of Taiwan. Putting aside the PRC's veto power, the 2/3 majority support of the General Assembly is needed to make an application. But, majority of the UN members

hold the official stance of recognizing one China, and Taiwan is an integral part of China.

### III. Implications for US-PRC, US-ROC, and PRC-ROC relations

The United States must take into careful consideration its relationships to both sides before fostering any position.

The United States officially views only one sovereign China, with the PRC as the government, and acknowledges China's position that Taiwan is part of China. Such a stance is stated in the three joint communiques. If the US chooses to support the ROC's entry into the U.N., with the understanding that the PRC opposes such entry, it would be seen as a violation of agreements by the PRC. Tensions in bilateral relations would certainly arise from this scenario.

Also, US support of ROC as an official entity or member in the UN would lead to a contradiction between the UN Charter language and the language of the official agreement of "One China" between the US and China.

According to the U.N. Charter article 2, Section 1: "The Organization is based on the principle of the sovereign equality of all its members", and article 4, Section 1: "Membership in the United Nations is open to all other peace-loving states..."

Clearly, to the PRC, these terms would be unacceptable, implying that

- A) The ROC government has "sovereign equality"
- B) ROC is "(an)other peace-loving state"-- suggesting that it is not a part of China

Whereas the United States and R.O.C. have had unofficial ties since 1979, the relationship between the two sides has been one built on respect and understanding. US/ROC relations have been good in past decades and we must continue to cultivate this positive association. However, despite our history of good relations, the U.S. must be careful not to unintentionally disrupt it. We continue to support the defense of the island, as indicated by our recent sale of F-16s, and we have sent a high-level official there despite the strong protest of the PRC. Clearly, these actions signify our support for the ROC, and the people living on Taiwan. Nevertheless, supporting their entry into the UN could conceivably carry with it negative fall-out--in light of the PRC position.

Since Taiwan's entry into the UN would be interpreted as Taiwan's calling for autonomy, sovereignty, and independence in the international community, US endorsement of ROC's entry, could potentially be viewed as an endorsement of such stance for independence. As we know, Taiwan independence is, as PRC repeatedly stated, the reason they would consider the option of using force.

While the U.S. has and continues to support ROC, we must be careful that this does not lead to unwanted ramifications resulting from the mainland reaction (i.e.--military intervention).

In recent years, the relationship between the mainland and Taiwan has changed dramatically. Today's economic integration and political dialogue between the PRC and Taiwan would be hard to imagine twenty years ago. The cross-straits relations are still increasing, both sides have begun to communicate directly without the help of third parties ( the first cross-strait Koo-Wang talk was held in Singapore, but the follow-up Jiao-Tang talk was in Taipei and Beijing). While certain flexibility has allowed for ROC's membership in other groups (some IGOs, mostly NGOs), a hard push for Taiwan's UN entry can hurt the current development, or even cause serious set-back. Taiwan and the PRC are now both in two international governmental organizations, namely, Asia Development Bank and APEC. This points the way to Taiwan participation in the World Bank, IMF, and IAEA where Taiwan clearly belongs.

#### IV. Future prospects and Conclusion

There have been suggestions that China follow Korea and Germany's models of dual entry into the UN. Thus far, the PRC government has argued that the situations are dissimilar, with those nations dividing as a result of international war, whereas China's division is a result of civil war and internal disputes. Besides, in the case of Korea, North Korea was desperate. With the development of South Korean ties with China and Russia (North Korea's biggest allies), North Korea was backed into a position of isolation, facing many political, economic, and social difficulties, if it did not agree to the separate entry of the two sides of Korea. In short, South Korea held all the cards in the deck, North Korea had no choice but to relent and accept simultaneous, dual entry. Conversely, PRC is in no such position as North Korea. PRC "holds the cards" while ROC is in the lesser position.

However, the PRC's emphasis on one China is not necessarily absolute, when placed in the Chinese historical context. If we consider the Warring States (475 - 221 B.C.) and the Three Kingdoms (220 - 280 A.D.), we see that China has in fact been a divided nation internally. As expressed in famous classical literature The History of Three Kingdoms, the Chinese do have the philosophy of "He Jiu Bi Fen, Fen Jiu Bi He" (long period of unity leads to separation, long period of separation leads to unity). There exists therefore precedent for China's temporary division, which does not prevent later unification, at some point. Beijing may be convinced in the future that to recognize the temporary division does not necessarily perpetuate the separation.

Until then, the likelihood of Taiwan's entry into the UN is very slim. However, in the future, under different circumstances, and more importantly,



different sentiments in the PRC, the scenario can change. Great changes are now taking place in China. Given the extent of evolution China has gone through in the past 15 years, in another 15 years or so the situation may well be fundamentally different from today, and what we view as impossible today may become a matter of normal course. The PRC spent 22 years waiting for the right timing to get into UN. Patience helped. We should hope that the time when China changes its position on the UN entry issue from one of "zero-sum" to one of "win-win" will not be that far in the future. We want to help them realize that entry of one should not be considered at the expense of the other, but rather at the mutual benefit of all parties; The game is not one of "choice," but rather of "name," or perhaps more aptly termed, a "game of interests." Again, however, while we can certainly be of help, the solution, especially in getting into UN, is up to the Chinese on both sides of the Straits.

**JAMES R. LILLEY**

James R. Lilley is a resident fellow and the director of Asian Studies at the American Enterprise Institute. Before joining AEI in January of 1993, Mr. Lilley served as assistant secretary of defense for International Security Affairs from November 1991 to January of 1993. He was Ambassador to the Peoples Republic of China from April 1989 to May 1991 and was Ambassador to the Republic of Korea from 1986 to 1989.

Mr. Lilley was born in Tsingtao, China, where he lived until his family returned to the U.S. in 1940. He attended Phillips Exeter Academy, graduating in 1945, and the Yale University, graduating with a BA in 1951. Mr. Lilley received an MA from George Washington University in 1972. He also attended Hong Kong and Columbia Universities for studies in classical Chinese. Mr. Lilley served in the United States Army in 1946-47 and as a First Lieutenant in the United States Air Force Reserve. He attended the National War College in 1972.

In his government career, Mr. Lilley has worked in Washington and in a number of American missions in East Asia, including Thailand, the Philippines, Cambodia, Laos and the United States Liaison Office in Beijing. In 1975 he was appointed National Intelligence Officer for China, the senior post in the intelligence community for Chinese Affairs. In 1981 he served as political coordinator and senior East Asian specialist on the National Security Council. From September 1984 to March 1985 he was a consultant on international security affairs to the Department of Defense. From 1985 to October 1986 he was Deputy assistant secretary of state for East Asian and Pacific Affairs.

Mr. Lilley has taught courses on Chinese economics for three years as adjunct professor at Johns Hopkins' School of Advanced International Studies and was a fellow at Harvard University Institute of Politics. Mr. Lilley was the second director of the American Institute in Taiwan, serving in that capacity from January 1982 to May 1984.

In his business career, Mr. Lilley has represented Hunt Oil of Dallas, Texas, and United Technologies in Hartford, Connecticut, in the period 1979-80. He has also worked with Archer-Daniels-Midland Co. and Westinghouse as a business consultant.

Mr. Lilley is married to the former Sally Booth; they have three sons.

**Testimony of**

**JOHN R. BOLTON**

**before the**

**Subcommittee on International Security, International Organizations and  
Human Rights**

**and the**

**Subcommittee on Asia and the Pacific**

**of the**

**House Foreign Affairs Committee**

**July 14, 1994**

**10:00 A.M.**

**Washington, D.C.**

Mr. Chairman Lantos and Mr. Chairman Ackerman, and members of the two Subcommittees, it is a pleasure to appear before you today to discuss the subject of the Republic of China on Taiwan's interest in reobtaining representation at the United Nations ("U.N."). My name is John R. Bolton, and I was Assistant Secretary of State for International Organization Affairs during the Bush Administration. I will summarize this prepared statement, which I request be included in the record of this hearing in full.

## INTRODUCTION

I believe that the United States should support the efforts of the Republic of China on Taiwan ("R O C." or "Taiwan") \*/ to become a full member of the United Nations. The U.N. Charter clearly contemplates an organization of universal membership, and it is anomalous that Taiwan remains on the outside. Its land mass (14,384 square miles, the size of Connecticut, Massachusetts and Rhode Island combined) and population (more than 21,000,000) alone make a strong case for membership in the United Nations. Taiwan's economic strength is even more convincing. Its \$210 billion economy, the 20th largest in the world, makes it 25th in per capita income, and it is the world's 14th largest trading partner.

Politically, Taiwan's democratic institutions now have firm roots, and its current record on human rights is strong, especially when compared to the Tienanmen experiences of its counterpart

in Beijing. In fact, the State Department's Country Reports on Human Rights Practices for 1993, issued in February, 1994, states "[i]n 1993 Taiwan continued its rapid progress toward a pluralistic system truly representing the island's population. Open political debate and a freewheeling print media contributed to a vigorous democratic environment."

Especially with the recent death of North Korean leader Kim Il-Sung, the prospects for instability in East Asia are high. As this testimony is being prepared, the situation on the Korean peninsula remains gravely uncertain, and it almost certainly will remain uncertain when the testimony is actually given and for some time in the future. Just as in 1950 and the years immediately thereafter, many decisions about Korea directly affecting Taiwan and its people may be made in the Security Council or other United Nations organs. Yet the R O C.'s 21,000,000 people, with enormous interests at stake, will be unrepresented. Moreover, it will not be long before similar generational changes take place in Beijing, with perhaps even more important consequences for Taiwan, still without U.N. representation. This unfairness must be corrected.

For obvious reasons, there are many practical obstacles standing in the way of the R O C.'s reassuming a seat in the United Nations. With your permission, Mr. Chairmen, I would like to address three main questions in this testimony. The first is a series of legal and political issues surrounding the status of Taiwan as it relates to U.N. membership. The second involves several issues concerning General Assembly Resolution 2758 (XXVI), which denied Taiwan

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\*/ For purposes of this testimony, I use the terms "Republic of China on Taiwan," "Republic of China," "R O C.," and "Taiwan" interchangeably. Major international political issues should not turn exclusively on fine points about names and designations, and the issue of Taiwan's eligibility for representation at the U.N. is certainly one such issue.

representation in the U.N., and how to resolve them. The third is an assessment of what the U.N. stands to gain from restoring the R.O.C.'s representation, and the practical results of Taiwan's current exclusion from the U.N. and U.N. specialized agencies, and from various international agreements

## I. TAIWAN'S STATUS AND U.N. MEMBERSHIP

Chapter II of the U.N. Charter restricts membership to "states." Under most accepted customary international law definitions, a "state" must control a defined territory, have a stable population, have a capital city, administer its own internal affairs, and be able to enter relations with other states. Under this definition, Taiwan clearly qualifies as a "state" within the meaning and practice of the Charter.

Some argue that "statehood" necessarily implies "independence," but these concepts are fundamentally different. In many respects, the situation of the "two Chinas" today is one of the few remaining hangovers of the Cold War, but the fact is that the People's Republic of China (P.R.C.) now holds the seat of "China" in the United Nations and its specialized agencies. Without getting into a very arcane discussion of cross-Straits relations, one can readily conclude from prior U.N. experience that the precise relationship between Taipei and Beijing -- whatever it is -- is no bar to full U.N. membership for the R.O.C.

Moreover, I do not believe that political differences on Taiwan about reunification with the Mainland or independence should be a factor in deciding what the United States position should be. There is virtual unanimity of opinion on Taiwan in favor of U.N. membership, albeit for very different reasons. From the American perspective, that is all we need to know.

The U.N.'s history has ample precedent for accommodating ambiguous circumstances. First, both East and West Germany held U.N. membership prior to their reunification, having both joined the U.N. at the same time in 1973 (ironically, just two years after Taiwan's representation was withdrawn). Similarly, the two Koreas both hold U.N. membership, even though their very existence stems only from the historical accident that the Japanese surrendered to the Americans in the South and the Soviets in the North at the end of World War II. The two Yemens also both held separate U.N. membership, prior to their original political merger (not the most recent "re-merger" by military force).

Moreover, India was a founding member of the U.N. in 1945 even though it was still a part of the British Empire. Ukraine and Belarus were also founding members, even though they were manifestly part of the Soviet Union. Thus, even if one were to accept -- contrary to fact -- Beijing's contention that Taiwan is simply a province of the P.R.C., U.N. precedent would not bar separate Taiwanese membership. In fact, the R.O.C. acknowledged on May 1, 1991, the obvious circumstance that it does not exercise jurisdiction over the Chinese mainland, and that there is "one China" with "two international juridical persons." Beijing, by contrast, has never faced that reality.

The fundamental point is that U.N. "legal" decisions are frequently tempered by practical

political realities, especially since these decisions are made by member governments and not through legal opinions. That is why the practice of the United Nations in construing international law is so important.

For example, in 1989 and 1990, the Palestine Liberation Organization ("P.L.O.") made repeated efforts to join specialized agencies of the United Nations such as the World Health Organization ("W.H.O."). At the time, the United States and others argued strenuously that the P.L.O. did not meet the customary international law standards of "statehood," as described above. The P.L.O. countered by saying that some ninety nations (the count tended to vary) had "recognized" an entity known as "the State of Palestine," representing Palestinians in the occupied territories on the West Bank of the Jordan River and in the Gaza Strip. Indeed, even the United States had begun a dialogue with the P.L.O. at its headquarters in Tunis, following the P.L.O.'s 1988 renunciation of terrorism. The P.L.O. argued that such broad recognition (at the time, a majority of U.N. members), and the U.S. dialogue entitled "the State of Palestine" to U.N. membership.

The 1989 World Health Assembly rejected the P.L.O.'s efforts, a clear indication that the P.L.O. lacked the requirements of "statehood." There, and in subsequent efforts in other U.N. agencies, the P.L.O. failed to overcome the insurmountable obstacle that it possessed none of the necessary attributes of "statehood." Moreover, political reality also worked against the P.L.O. because Secretary of State James A. Baker III had stated "I will recommend to the President that the United States make no further contributions, voluntary or assessed, to any international organization which makes any change in the P.L.O.'s present status as an observer organization." Congress quickly followed with appropriate legislation. What was at best a highly dubious legal claim by the P.L.O. was crushed by the political reality of clear, decisive and unhesitating American leadership.

In the case of the R.O.C., however, the issue is far simpler, because the key legal question can be unambiguously resolved in favor of Taiwan's admissibility. Taiwan unquestionably meets the membership requirements of Article 4(1) of the Charter, which provides that "[m]embership in the United Nations is open to all peace-loving states which accept the obligations contained in the present Charter." Moreover, the R.O.C. is not arguing that it should be seated while simultaneously ousting the P.R.C. from either the Security Council permanent seat or from the United Nations itself. It is simply seeking separate U.N. representation for its own citizens, on whose behalf the P.R.C. quite obviously does not speak.

## II. REOBTAINING R.O.C. REPRESENTATION

### A. RESOLUTION 2758(XXVI)

The P.R.C. never actually joined the United Nations, and the R.O.C. never actually left it. Instead, the P.R.C., acting only in the General Assembly and not in the Security Council, persuaded a majority of U.N. members to authorize a shift in "representation" for "China." This highly unusual, indeed unprecedented, action took place in 1971 during the 26th General Assembly. Resolution 2758 provided, in a preambular paragraph, that the representatives of the

P R C "are the only lawful representatives of China to the United Nations . . . " The Resolution's only operative paragraph stated that the General Assembly

"Decides to restore all its rights to the People's Republic of China and to recognize the representatives of its Government as the only legitimate representatives of China to the United Nations, and to expel forthwith the representatives of Chiang Kai-shek from the place which they unlawfully occupy at the United Nations and in all the organizations affiliated to it."

This highly unusual procedure was unquestionably adopted by the P.R.C. for practical political reasons

Had the P.R.C. applied for membership in the U.N. on its own, it would have had to follow the procedures set forth in Article 4(2) of the Charter, which provides that new members are elected "by a decision of the General Assembly upon the recommendation of the Security Council " Quite obviously, such an approach would have subjected it to the R.O.C.'s and the U.S.'s veto (and, for at least some time, the U.K.'s and France's as well), and the issue would never have been considered by the General Assembly.

Another possibility for the P.R.C. would have been to try to suspend the R.O.C. from U.N. membership under Article 5 of the Charter. This was not a realistic alternative, however, since Article 5 provides for the suspension only of members "against which preventive or enforcement action has been taken by the Security Council . . .," which was obviously not the case with Taiwan

Yet another possibility for the P.R.C. would have been to seek to have Taiwan expelled from the U.N. pursuant to Article 6. That approach was also unrealistic, since Article 6 can be applied only against a member "which has persistently violated the Principles contained in the present Charter . . .," which clearly could not be said about Taiwan.

In the cases of both Article 5 and Article 6, moreover, the General Assembly could not act except upon the recommendation of the Security Council, where the P.R.C. would again have faced the prospect of a multiple veto. Moreover -- and most significantly for present purposes -- consideration of either suspension or expulsion in the General Assembly is explicitly named as an "important question" by Article 18(2) of the Charter. Under this provision, "important questions" must be decided by an affirmative vote of "a two-thirds majority of the members present and voting " The Charter designates other important questions as well, including the admission of new members and the election of non-permanent members of the Security Council

All other questions in the General Assembly are decided by a simple majority of the members present and voting according to Article 18(3) of the Charter. This simple-majority rule applies to deciding what other issues might be considered "important questions," thus requiring a two-thirds majority to be adopted

With this background in mind, it becomes perfectly apparent what the P.R.C.'s strategy was in the years leading up to the adoption of Resolution 2758. None of the routes specified in the Charter for dealing with representation -- membership, suspension or expulsion -- could

escape vetoes in the Security Council or the high hurdle of a two-thirds majority in the General Assembly. Accordingly, the P.R.C. decided to end run the carefully crafted procedural protections of the Charter, and create a new and unauthorized procedure of simply replacing one set of "representatives" with another.

For many years, the United States, the R.O.C. and their supporters were able to thwart this evasion of the Charter. Initially, on December 15, 1961, the General Assembly adopted Resolution 1668(XVI), deciding that "in accordance with Article 18 of the Charter, any proposal to change the representation of China is an important question." In several subsequent General Assemblies, when the issue of representation was raised, Resolution 1668 was reaffirmed, including through the Twenty-Fifth General Assembly in 1970.

On October 25, 1971, however, the Twenty-Sixth General Assembly rejected the "important question" draft resolution by a vote of 55 in favor; 59 against; 15 abstentions; and 2 absent. Once this important procedural protection was lost, the draft resolution which became 2758 was adopted by a vote of 76 in favor; 35 opposed; 17 abstentions and 3 not participating. The Republic of China was listed as not participating even though Minister of Foreign Affairs Chow Shu-kai had announced the R.O.C.'s decision to withdraw from the U.N. prior to the vote.

There are very strong arguments, therefore, that Resolution 2758 violated the U.N. Charter. It had the de facto -- but not de jure -- effect of admitting a new member, expelling a sitting member, and replacing a Permanent Member of the Security Council, all without Security Council action. Moreover, Resolution 2758's supporters argued that none of these results was an "important question" under the U.N. Charter, and a majority of the General Assembly ultimately agreed. Whether illegal or not, however, Resolution 2758 was adopted, and the question now is how to address its consequences.

## B. REPEALING RESOLUTION 2758

The most obvious option for the R.O.C. is to seek the repeal of Resolution 2758 and reobtain representation. In effect, Taiwan faces the mirror image of the problem the P.R.C. faced before 1971 -- attempting to obtain membership through the normal Charter procedures would almost surely produce a Beijing veto, at least without major diplomatic efforts that would embarrass the P.R.C. into simply abstaining. Without the enthusiastic support of other Permanent Members of the Security Council -- especially the United States -- this option has limited practical utility, at least for now.

Accordingly, repealing Resolution 2758 and reaffirming Taiwan's right to be represented would appear to be the most realistic approach, although that also will require considerable diplomatic efforts. I propose here to discuss several legal and procedural objections that might be raised to a repeal effort, and hope to show that they are without merit.

First, it was argued for many years that the actions of one General Assembly could not be overturned by subsequent General Assemblies. Although such a notion might seem strange to members of Congress, it acquired near-mythic proportions in the General Assembly, largely during years when American and Western values were routinely assaulted by Cold War and Third



## World ideological adversaries

In fact, it always was a myth. As early as 1950, the General Assembly had repealed an earlier Resolution. On November 4, 1950, the General Assembly, in Resolution 386(V), rescinded Resolution 38(I) of December 12, 1946, which had barred Spain -- as a former "enemy state" -- from U.N. membership, and recommended the withdrawal of diplomatic representation from Madrid. It was precisely Second and Third World fears of the impact of repealing earlier General Assembly Resolutions that subsequently permitted other former "enemy states" to be admitted to the U.N. without revoking their "enemy state" status.

Whatever doubts existed about the authority of the General Assembly to repeal earlier resolutions were completely dispelled on December 16, 1991, when the infamous "Zionism is racism" resolution was repealed. Adopted in 1975, Resolution 3379(XXX) had been the subject of broad and deep bipartisan opposition in the United States, with successive Administrations of both parties committed to its repeal. The repeal resolution was ultimately adopted by a vote of 111 in favor, 25 opposed, 13 abstaining; and the remainder not participating.

With so recent and so important a precedent at hand, there can be no doubt that the General Assembly possesses plenary authority to repeal Resolution 2758.

Second, Taiwan's opponents will undoubtedly raise the question whether the General Assembly has the authority -- acting on its own without the Security Council -- to "reset" Taiwan. The Charter is essentially silent on this point because the Framers simply never contemplated the unique situation in which the R.O.C. finds itself today. Of course, the Charter was equally silent on the ultra vires procedures followed by the General Assembly in adopting Resolution 2758.

Recognizing the P.R.C.'s "representatives" is neither the admission of a new member under Article 4, nor acceptance of credentials pursuant to the General Assembly's Rules of Procedure. Similarly, for the General Assembly to "expel" Chiang Kai-shek's "representatives" has no basis whatever in the U.N. Charter. Moreover, the P.R.C. had no legal "rights" to "restore," as Resolution 2758 states, since it was never previously a U.N. member.

Significantly, Resolution 2758 itself cites no authority in the Charter, a tacit admission that there is no such authority. It is clear that "expelling" a head of government's "representatives" does not constitute suspension of the R.O.C.'s rights and privileges of membership under Article 5, or expulsion from the U.N. under Article 6.

Even assuming the illegality of Resolution 2758, however, it is still important to have a persuasive argument that the General Assembly can, in fact, reset Taiwan by its own action alone. In 1971, recognizing the likelihood that the P.R.C.'s efforts would finally succeed, the United States and others had introduced a draft resolution for "dual representation" of both the P.R.C. and the R.O.C., with the P.R.C. being seated as a Permanent Member of the Security Council. Operative paragraph 2 of the draft American resolution stated specifically that the General Assembly "Affirms the continued right of representation of the Republic of China." Because Resolution 2758 was adopted, and because of the R.O.C.'s position that it had withdrawn from the United Nations, the draft "dual representation" resolution never came to a

### General Assembly vote

Reseating Taiwan today would have the practical effect of adopting the 1971 "dual representation" resolution. Although either approach would result in an additional U.N. member, that outcome cannot be any different in legitimacy than Resolution 2758 itself. It would be absurd to say that the General Assembly is unable to correct the iniquitous effects of a probably illegal earlier Resolution simply because of doubts about the Resolution used to make the correction. Otherwise, the General Assembly would be unable to overcome self-inflicted wounds, even when it had the will and the ability to do so. The Framers of the Charter could hardly have expected such a result, lending confidence to the conclusion that reseating Taiwan in the U.N. through a General Assembly Resolution is permissible.

Third, some might argue that, whatever the legality of resolution 2758, the R.O.C.'s announcement of withdrawal, immediately after the vote, means that Taiwan renounced its status as an original U.N. member, and that it must now reapply under Article 4 as a new member.

The U.N. Charter deliberately made no provision for the withdrawal of member governments, largely to prevent the threat of withdrawal from being used as a form of political blackmail or to evade obligations under the Charter. Japan's withdrawal from the League of Nations in March, 1933 -- to signal its repudiation of the League's condemnation of Japan's invasion of China -- was very much on the minds of the Framers of the U.N. Charter. It is, therefore, not at all clear whether withdrawal by a member government is even permissible under the Charter.

Because Resolution 2758 is itself such an anomaly, it is doubtful whether the issue of Taiwan's purported withdrawal should play any role in considering repeal. The Secretariat's recording the R.O.C. as "not participating" in the vote adopting Resolution 2758 also supports the notion that the "withdrawal" was never perfected. Moreover, the real issue is the political will of the General Assembly to correct this 1971 wrongdoing. If that will exists, the withdrawal issue will be moot in any case.

Fourth, opponents of the repeal of Resolution 2758 will undoubtedly attempt to declare the repeal an "important question" under Article 18 of the Charter, thus requiring a two-thirds vote to be successful. Here again, the 1991 repeal of the "Zionism is racism" resolution provides an important precedent. When the repeal effort finally culminated in an impending vote in the General Assembly, opponents attempted to have the vote on the repeal resolution declared an "important question."

Significantly for present purposes, Resolution 3379 had been adopted by a simple majority, which provided a telling argument against those who wished to have its repeal conditioned on a two-thirds majority. The effort to have the repeal of Resolution 3379 declared an "important question" failed by a vote of 39 in favor; 96 opposed; 13 abstaining, and the remaining nations not participating. Exactly the same argument applies here, since Resolution 2758 was not decided as an "important question." Neither, therefore, should the subject of its repeal be an "important question." The P.R.C. might argue that the R.O.C. and its supporters should not be permitted to reverse the positions they held in 1971, but the response is clear: the General Assembly made its decision on the "important question" issue then, and fairness dictates

that the issue be treated in a symmetrical fashion on a vote to repeal.

Although this perspective would appear to be a matter of simple logic, there is every reason to believe that the P R C. and its supporters (ironically, reversing their 1971 position) will use the "important question" tactic. In purely practical political terms, however, if there is a majority in the General Assembly favoring repeal, that very same majority should oppose -- and defeat -- an "important question" motion.

### III. THE COSTS OF EXCLUDING THE R.O.C. FROM THE U.N.

The question of Taiwan's U.N. membership is undoubtedly an important political and diplomatic issue in and of itself. The membership issue has other significant ramifications as well, however, which are often overlooked in the political debate. I hope to address some of these overlooked issues here, especially as they reflect on the damage done to the international community because of Taiwan's exclusion.

At the outset, however, I would like to explain how Taiwan's lack of U.N. representation hurts the United States. Although numerous improvements have taken place in the past six or seven years in the overall behavior of the General Assembly, much remains to be done. A relatively large, democratic, prosperous, and non-OECD new member would be of considerable assistance in continuing the progress that has been made to date. Moreover, in due course, following the traditional rotation system within the regional groupings, we could once again expect to see the Republic of China sitting on the Security Council, this time as a non-permanent member. Such a result would almost certainly be in America's best interests.

As for the international community as a whole, renewed representation for Taiwan would significantly contribute to resolving a number of critical issues. Without membership, however, such contributions are virtually impossible to make, as explained below.

First, as a practical matter, the only realistic way to become a member of the most important specialized agencies and related organs of the U.N. system is to join the U.N. itself. Although essentially all of the specialized agencies can be joined independently of joining the U.N., this is a rare course, usually taken by very small states with only limited interests in narrow areas of U.N. activities. Moreover, any application by the R.O.C. for membership in a specialized agency would be seen as political, and many members would treat it very unfavorably as such. The United States itself, for example, has for years, on a bipartisan basis, opposed the politicization of the specialized agencies, arguing that fundamentally political issues be decided by the U.N.'s political organs (the Security Council and the General Assembly) and not in fora unsuited to making such decisions.

The net impact, therefore, is that Taiwan is excluded from such U.N. organs as

-- the International Atomic Energy Agency. As noted at the outset of this testimony, with all of the uncertainty on the Korean peninsula at present, it is unfair to the people of Taiwan that policies and strategies that literally could affect their very existence are being developed completely without their participation. Moreover, the Non-Proliferation Treaty's

regime has obvious implications for a people located hard by one of only five of the world's declared nuclear powers

-- the International Maritime Organization. Taiwan, as one of the world's leading trading nations, has important interests in maritime safety procedures (such as the Global Maritime Distress and Search System), pollution issues and questions of international salvage rights. Because it has no representation at the U.N., however, the R.O.C. cannot participate in the work of this small but critical specialized agency.

-- the International Telecommunications Union. Because the R.O.C. is effectively precluded from joining the ITU, it cannot be assigned a permanent "country code" for international telecommunications purposes. As a result, it must make do with temporary codes, which can be taken away when new nations qualify for their own country codes. Recently, for example, Taiwan has lost two separate codes to the new nations of Kazakhstan and Turkmenistan. Just as when anyone's telephone number changes, altering Taiwan's country code causes enormous disruptions and inefficiency in international commerce and communications.

-- the World Intellectual Property Organization. Without membership in this protector of intellectual property rights, citizens of the R.O.C. cannot be protected against infringements on their rights, nor can foreigners receive reciprocal protection in Taiwan. As intellectual property rights become more and more important, protection of those rights becomes more important as well. Given the size of Taiwan's growing economy, leaving it outside the international community benefits no one.

-- the World Health Organization. Even with the AIDS pandemic worldwide, the R.O.C. can neither protect the interests of its citizens in this important organization, nor can it provide the benefits of the lessons learned from its public health initiatives.

These are just a few of many examples where Taiwan's lack of representation impairs the functioning of the international community.

Second, in some other cases, the only way to participate in the work of a U.N. organ is to be a member. For example, the U.N. Environmental Program ("UNEP") is such an agency. General Assembly Resolution 2997(XXVII) of December 15, 1972, which created the Program, provides in Operative Paragraph 1 that only U.N. members can participate in UNEP's Governing Council. This requirement effectively excludes Taiwan and all non-U.N. members from UNEP's work at precisely the time when environmental matters are receiving heightened attention all around the world. Similarly, the R.O.C. is precluded in participating in many U.N.-sponsored environmental conventions, such as the 1987 Montreal Protocol on protecting the ozone layer against further depletion.

Participation in the U.N. Development Program, the main funding agency for U.N. development activities around the world, is also limited to countries already a member of the U.N. system. Thus, although Taiwan has conducted extensive development assistance programs in a limited number of LDC's through its International Economic Cooperation and Development Fund (established in 1988), many countries are precluded from access to its expertise through the U.N.'s multilateral channels because the R.O.C. is not a U.N. member. Similarly, UNICEF is

entirely comprised and funded by U.N. member states.

These exclusions are especially hard to understand, especially since Taiwan retained full donor membership in the Asian Development Bank (under the name "Taipei, China") even after the P.R.C. was admitted in 1986. The R.O.C. has undertaken co-financing projects with the Inter-American Development Bank, and it is a non-regional member of the Central American Bank for Economic Integration (under the name "Republic of China"). Taiwan has also established a technical assistance program in agreement with the European Bank for Reconstruction and Development. In each case, the R.O.C. has made valuable contributions, in both financial and human resource terms. There is no reason such contributions to international development should not also be made available through the U.N. system.

The foregoing very partial catalogue is plainly sufficient to demonstrate that the P.R.C.'s position opposing Taiwan's efforts to secure representation is impairing the security, humanitarian and economic functioning of the U.N., all because of a Cold-War era dispute.

## CONCLUSION

The time has come for the United States to take the lead -- as it must in any important U.N. issue -- to seek representation for Taiwan throughout the U.N. system. It is in our national interest to do so. We have an important opportunity in the upcoming Forty-Ninth General Assembly this fall to move the debate forward substantially, and we should not miss the chance to do so.

Thank you very much, Mr. Chairmen, and I would be happy to answer any questions you or members of the two subcommittees may have.

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General Counsel	February, 1981 - February, 1982

**Selected Publications:**

"Wrong Turn in Somalia," 73 Foreign Affairs 56, January-February, 1994, Number 1

"A Good Year at the U N ?," The Washington Post, January 17, 1994

"Musical Chairs at the U N .," The Washington Times, October 11, 1993

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"Constitutional Limitations on Restricting Corporate and Union Political Speech," 22 Arizona L. Rev. 373 (1980)

"Legal Services and Landlord-Tenant Litigation A Critical Analysis," 82 Yale L. J. 1495 (1973)

## **The United Nations Membership for Taiwan**

Hearing of the Subcommittee on International Security  
 International Organizations and Human Rights  
 Committee on Foreign Affairs  
 U.S. House of Representatives  
 Washington, D.C.  
 July 14, 1994

(Testimony of Hungdah Chiu, Professor of Law and Director of East Asian Legal Studies Program, University of Maryland at Baltimore, Baltimore, Maryland 21201)

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## 1. Introduction

The Republic of China (ROC) on Taiwan is in effective control of an area of 14,000 square miles, which is approximately the combined size of Maryland, Delaware and Rhode Island in the United States.<sup>1</sup> It has a population of approximately 21 million, with a per capita income of approximately U.S. \$11,000 in 1993. Its GNP (Gross National Product) is the world's twentieth largest and its U.S. \$80 billion foreign exchange reserves are the world's second largest. It is the fourteenth largest trading nation in the world and is the world's seventh largest outbound investor. In terms of its political system, the Republic of China has a popularly-elected democratic government with a constitution<sup>2</sup> guaranteeing all human rights recognized in the 1948 Universal Declaration of Human Rights.<sup>3</sup>

However, such a viable, democratic and prosperous nation has not been allowed to participate in the United Nations and many inter-governmental organizations, especially the specialized agencies of the United Nations. In this paper, I will briefly analyze the origins of the exclusion of the Republic of China on Taiwan in 1971 from the United Nations; the relations between the Republic of China and the United Nations after 1971, the United Nations membership issue and the internal political development in Taiwan and its impact on Taiwan-mainland relations; and finally, the implication of this issue for United States-China policy and the United States national interests.

## 2. The Exclusion of the Republic of China on Taiwan from the United Nations and Its Specialized or Affiliated Agencies

On March 5, 1945, the Republic of China then on the Chinese mainland, the United States, the United Kingdom and the Soviet Union, as sponsoring countries, invited 46 countries to participate in the United Nations Conference on International Organization to be convened on April 25, 1945. At the plenary meeting held on June 26, 1945, the Charter of the United Nations was adopted. On October 24, 1945, the Charter entered into force upon the ratification by the Republic of China, the United States, the United Kingdom, the Soviet Union and the majority of other participants to the San Francisco Conference. On January 10, 1946, the inauguration meeting of

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<sup>1</sup>For general information on the Republic of China, see *The Republic of China Yearbook 1994*, Taipei: Government Information Office, 1993.

<sup>2</sup>Text of the Constitution in *ibid.*, pp. 693-704 (text), 705-708 (Additional Articles).

<sup>3</sup>United Nations General Assembly Resolution 217 (III). U.N. Doc. A/810 (December 10, 1948).



the United Nations was held in London.<sup>4</sup>

The Republic of China was a faithful member of the United Nations until it was unjustly deprived of its seat at the United Nations in 1971. It is not possible to give a detailed analysis of the Republic of China's participation in, and contribution to, the United Nations between 1946-1971. It is only necessary here to point out that when the United Nations General Assembly voted in October 1971 to deprive the Republic of China of its seat in the United Nations, none of the countries that voted for that unjust resolution were able to provide any facts showing that the Republic of China consistently violated any principles of the United Nations Charter, a requirement under Article 6 of the Charter to justify the expulsion of a member.

On the contrary, many countries at that time defended the right of the Republic of China to maintain its seat at the United Nations on the ground that the Republic of China was a faithful member of the United Nations in good standing. At that time, the representative of the United States specifically pointed out that the Republic of China was a member in good standing with no Charter violations and with a most constructive record.<sup>5</sup> The representative of Japan also stated that the Republic of China was one of the original founders of the United Nations in 1945 and that it had faithfully carried out its responsibilities and obligations under the Charter, consistently upholding the authority and prestige of the Organization.<sup>6</sup>

Similarly, the representative of the Democratic Republic of the Congo emphasized that the Republic of China had always faithfully discharged its obligations, and that its conduct had remained beyond reproach in its relations with states.<sup>7</sup>

On October 26, 1971, the General Assembly of the United Nations adopted Resolution 2758 (XXVI)<sup>8</sup> to give the Chinese seat to the People's Republic of China (PRC) and thus exclude the Republic of China from participation in the United Nations, despite the fact that many countries (led by the United States and others) proposed that arrangements should be made for representation of both the Republic of China

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<sup>4</sup>Leland M. Goodrich, Edvard Hambro and Anne Patricia Simons, *Charter of the United Nations: Commentary and Documents*, 3rd rev. ed., New York and London: Columbia University Press, 1969, p. 9.

<sup>5</sup>*UN Monthly Chronicle*, Vol. VIII, No. 10 (November 1971), p. 41.

<sup>6</sup>*Ibid.*, p. 48.

<sup>7</sup>*Ibid.*, p. 50.

<sup>8</sup>Text in *Yearbook of the United Nations*, Vol. 25 (1971), New York: United Nations Office of Public Information, 1974, p. 136.

and the People's Republic of China in the United Nations.<sup>9</sup> Other specialized or affiliated agencies of the United Nations, such as the International Labor Organization, United Nations Educational, Scientific and Cultural Organization, Universal Postal Union, International Telecommunication Union, World Meteorological Organization, Inter-Governmental Maritime Consultative Organization (now International Maritime Organization), International Atomic Energy Agency, General Agreement on Tariffs and Trade (observer status), World Health Organization, the International Civil Aviation Organization and the Food and Agriculture Organization, soon took similar measures to exclude the Republic of China.<sup>10</sup> In 1980, the International Monetary Fund (April 17), the International Bank for Reconstruction and Development (World Bank) (May 15), the International Development Association (IDA) and the International Finance Corporation (IFC) also excluded the Republic of China.<sup>11</sup>

The consequence of United Nations General Assembly Resolution 2758 (XXVI) was to deprive the Chinese people in the Taiwan area, then totalling 14 million and now totalling 21 million, of the right to participate in international activities sponsored by the United Nations and its specialized agencies.

These 21 million Chinese people in Taiwan were excluded from participation in the United Nations and its specialized or affiliated agencies not because they had done anything wrong, but because the People's Republic of China, which has never exercised effective control over Taiwan, demanded that the Republic of China on Taiwan be excluded. In the preamble of the Charter of the United Nations, it is stated that "We the people of the United Nations determined . . . to reaffirm faith in

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<sup>9</sup>On September 29, 1971, a proposed resolution to have both the People's Republic of China (with permanent seat in the Security Council) and the Republic of China represented in the United Nations and its specialized agencies was submitted by 19 states, namely, Australia, Bolivia, Chad, Costa Rica, the Dominican Republic, Fiji, Gambia, Haiti, Honduras, Japan, Lesotho, Liberia, Mauritius, New Zealand, the Philippines, Swaziland, Thailand, the United States and Uruguay. With the adoption of the Resolution 2758 (XXVI) on October 26, 1971, this 19-power resolution was not put to vote. See *Yearbook of the United Nations*, Vol. 25, *supra* note 8, pp. 128, 132.

<sup>10</sup>See *Yearbook of the United Nations*, Vol. 25, *supra* note 8, pp. 132-135 and "Representation of China Within the United Nations System," *International Legal Materials*, Vol. XI (1972), pp. 561-570.

<sup>11</sup>See "International Money Fund, China Admitted, Taiwan Removed," *Facts on File*, Vol. 40, No. 2059 (April 25, 1980), p. 302 C1 and "China, World Bank Membership Gained," *ibid.*, No. 2063 (May 23, 1980), p. 389 C1. IDA and IFC are both affiliated agencies of the World Bank, so the ROC also lost its membership in both organizations.

fundamental human rights in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small . . . have agreed to the present Charter of the United Nations and do hereby establish an international organization to be known as the United Nations." Clearly, the exclusion of the Republic of China and its people from the United Nations and its specialized or affiliated agencies is contrary to the spirit and letter of the Charter.

### 3. The Republic of China's Support of the United Nations After Its Exclusion

Despite the great injustice done to the Republic of China and its people by the October 26, 1971 General Assembly resolution 2758 (XXVI), which compelled the Republic of China to withdraw from the United Nations before that unjust resolution was put to a formal vote, the government and people of the Republic of China have never lost their faith in the Charter of the United Nations. On the day the United Nations General Assembly adopted that unjust resolution, the late President Chiang Kai-shek delivered a message to the Chinese people in Taiwan, in which he stated:

The Chinese cultural tradition is to uphold justice and love peace. Although we have withdrawn from the United Nations, which we helped establish, we shall continue to be guided by the purposes and principles of the United Nations Charter in the international community and shall continue to fight courageously for international truth and justice and for world peace and security.<sup>12</sup>

The Republic of China, despite the fact that it has not been a member of the United Nations since 1971, has continued to support the activities and resolutions of the United Nations. Thus, on August 6, 1990, after the invasion of Kuwait by Iraq, the Security Council of the United Nations adopted Resolution 661<sup>13</sup> to impose economic sanctions against Iraq. The Republic of China soon issued an order to implement this resolution by suspending the issuance of export licenses to Iraq.<sup>14</sup>

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<sup>12</sup>*Chung-hua Min-kuo Ch'u-hsi Lien-ho-Kuo ta-hui ti erh-shih-liu-chieh ch'ang-hui tai-piao-t'uan pao-kuo-shu* (Report of the Delegation of the Republic of China to the Twenty-sixth Session of the General Assembly of the United Nations), Taipei: compiled and published by the International Department of the Ministry of Foreign Affairs, April 1972, pp. 121 (Chinese), 124 (English).

<sup>13</sup>Frederic L. Kirgis, Jr., *International Organizations in Their Legal Setting*, 2nd ed., St. Paul, Minn.: West Publishing Co., 1993, pp. 645-646.

<sup>14</sup>Public Notice of Mao (79) i No. 21592 of the Bureau of Foreign Trade of the Ministry of Economic Affairs, document not printed in published source.

On May 30, 1992, the Security Council of the United Nations adopted resolution 757,<sup>15</sup> imposing economic sanctions on Yugoslavia (Serbia and Montenegro) for its intervention in the Republic of Bosnia and Herzegovina. On November 16, 1992, the Security Council adopted Resolution 788<sup>16</sup> and on April 17, 1993 adopted Resolution 820<sup>17</sup> to strengthen its economic sanctions against Yugoslavia. On June 10, 1993, the Republic of China's Ministry of Communications issued an order prohibiting the entry of Yugoslavian ships to ports in the Republic of China.<sup>16</sup>

Since 1981, the ROC has voluntarily participated in international disaster relief activities, and since 1990 the ROC set up a special fund for that purpose in its annual governmental budget. The fund has made grants to more than 40 countries,<sup>19</sup> almost all of which are members of the United Nations. During the Persian Gulf War of 1990-1991, in response to the call of the United States, the Republic of China contributed U.S. \$20 million to Jordan, U.S. \$2 million to Turkey and U.S. \$10 million to the Kurds in Iraq.<sup>20</sup> During the 1989 San Francisco earthquake, the 1992 Florida hurricane, and the 1993 Los Angeles earthquake, the Republic of China contributed more than U.S. \$1.2 million to the disaster areas. In 1992, after the dissolution of the Soviet Union and in response to the call of the United States and other countries, the Republic of China donated more than U.S. \$60 million in funds, medicine and food to Russia, Ukraine, Belarus (formerly Byelorussia) and Latvia.<sup>21</sup>

In addition to making contribution in relief funds, the ROC has provided many developing countries, almost all of which are under United Nations technical assistance programs, with technical assistance and developmental funds. In 1992, a total of forty-four technical assistance teams in areas including agriculture, fisheries,

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<sup>15</sup>Kirgis, *supra* note 13, pp. 692-695.

<sup>16</sup>*Ibid.*, pp. 696-698.

<sup>17</sup>U.N. Doc. S/RES/820 (April 17, 1993).

<sup>18</sup>Letter of Chiao-han (82) No. 016274 to the port authorities of Keelung, Taichung, Hualien, Kaohsiung and Suao. Documents not printed in published source.

<sup>19</sup>See Ministry of Foreign Affairs, ed., *Tui-wai kuan-hsi yu wai-chiao hsing-cheng* (External relations and foreign affairs administration) [Report on Foreign Affairs], Taipei: Distributed by Chen-chung Book Co., December 1992, pp. 320-326.

<sup>20</sup>*Ibid.*, p. 329.

<sup>21</sup>*Ibid.*, p. 332.

medicine, handicrafts and industrial development, were sent to thirty-four countries,<sup>22</sup> all of which are members of the United Nations. In 1988, the Republic of China set up an International Economic Cooperative Fund with the goal of providing up to U.S. \$1 billion of development funds for developing countries.<sup>23</sup> Special vocational training seminars have been organized for several thousand participants from more than eighty developing countries,<sup>24</sup> all of which are under the various United Nations technical assistance programs.

#### **4. The United Nations Membership Issue and Internal Political Development in Taiwan**

Through a series of political reforms since the late 1980's, the Republic of China is now a full-fledged democracy. All people's representative bodies, such as the National Assembly and the Legislative Yuan, are periodically elected in Taiwan under the principle of "one person, one vote." By any criteria of international law, the Republic of China on Taiwan, as a viable, democratic and prosperous state in the international community is entitled to be represented in the United Nations and its specialized or affiliated agencies. However, this is not the case.

The exclusion of the Republic of China has engendered great indignation among the 21 million Chinese people in Taiwan. They cannot believe or understand how an organization like the United Nations, with a principal goal of promoting the human rights of all people, can continue to disregard the basic human rights of the 21 million Chinese people in the Republic of China. Those 21 million people represent a population larger than that of two-thirds of the members of the United Nations. The Chinese people in Taiwan have since the early 1990's demanded the government of the Republic of China make efforts to restore their representation in the United Nations and its specialized or affiliated agencies which they were unjustly deprived in 1971-72 and 1980.

The feeling of the Chinese people in Taiwan was vividly described in a speech delivered by Premier Lien Chan of the Republic of China on September 2, 1993 at the 30th Anniversary meeting of the Chinese National Press Council in Taipei:

[I]n the 22 years since we were excluded from the United Nations, the 21 million citizens in the Taiwan area have been seriously discriminated against and their dignity and basic rights to participate in political,

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<sup>22</sup>*Ibid.*, pp. 304-305.

<sup>23</sup>Prior to 1993, U.S. \$420 million had been set aside for this purpose, see *The Republic of China Yearbook 1994*, *supra* note 1, p. 171.

<sup>24</sup>*Report on Foreign Affairs*, *supra* note 19, pp. 305-306.

economic, and cultural activities in the international community have been violated. This is a very immoral, unfair, and unreasonable situation. If the United Nations really values human rights, it must not continue to just sit by and watch. The United Nations should prove its esteem for human rights by promptly taking action to correct the situation. . . .

Members of the United Nations must realize that while the United Nations Assembly, in its 1971 resolution, accepted the Chinese communist authorities and barred us from its organizations, the United Nations, nevertheless, ignored the fact that the Chinese communists cannot and are not entitled to represent the 21 million people in the Republic of China on Taiwan. We are not represented in the United Nations today. Nor do we have anyone who can stand up for our rights or promise to take on our responsibilities. Is it normal for such an important international intergovernmental organization to ignore the existence of our 21 million people? Is it normal for our children, women, aged, and handicapped to be excluded from United Nations activities and deprived of their rights and the benefits which their counterparts in other countries around the world enjoy? Is it normal for our police to be deprived of full international cooperation in their mission to crack down on international crimes and drug trafficking?<sup>25</sup>

#### 5. The World Has Begun to Pay Attention to the Issue of the Republic of China's Participation in the United Nations

Recently, this great injustice to the Republic of China and its twenty-one million people in Taiwan has come to the attention of several states. Thus, on August 6, 1993, seven Central American states, namely, Belize, Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama, requested the 48th Session of the General Assembly of the United Nations to include in its agenda a draft resolution for establishing an *ad hoc* committee "to analyze comprehensively all aspects of the exceptional situation" of the 21 million Chinese on Taiwan who are not represented in the United Nations, and to make appropriate recommendations.<sup>26</sup> In the explanatory

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<sup>25</sup>Lien Chan, *Let the Cry for Justice Reach Far and Wide!* (Remarks on the 30th Anniversary of the National Press Council [September 2, 1993]), Taipei: Government Information Office, September 1993, pp. 6-7.

<sup>26</sup>"Request for the Inclusion of a Supplementary Item in the Agenda of the Forty-Eighth Session, Consideration of the Exceptional Situation of the Republic of China in Taiwan in the International Context. Based on the Principle of Universality and in Accordance with the Established Model of Parallel Representation of Divided Countries

memorandum attached to this draft resolution, it is noted that the Republic of China in Taiwan has adopted "the Guidelines for National Unification,"<sup>27</sup> which are consistent with the spirit of the Charter with regard to the peaceful settlement of disputes." However, "[b]efore reunification can be achieved, the Republic of China in Taiwan must secure recognition of its international status, enabling it to participate in the United Nations, so that the interests of the 21 million Chinese in the territory under its jurisdiction can enjoy proper and effective representation," the memorandum observed.

It also pointed out that the "precedent set by the former East and West Germanys and by North Korea and South Korea, which became members of the United Nations, shows clearly that parallel membership in the United Nations neither prevents the unification of a nation nor implies international support for its permanent division."

Moreover, the memorandum noted that both "the Republic of China and the People's Republic of China are members of the Asian Development Bank (ADB) and the Asia-Pacific Economic Cooperation Council (APEC), and both have observer status with the General Agreement on Tariffs and Trade (GATT), to which they are negotiating accession."

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at the United Nations" (Letter dated August 6, 1993 from the representatives of Belize, Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama to the United Nations addressed to the Secretary-General), U.N. Doc. A/48/191 (August 9, 1993), reprinted in *Chinese Yearbook of International Law and Affairs*, Vol. 11 (1991-1992), pp. 261-262, Explanatory Memorandum in pp. 263-264, Draft Resolution in p. 265.

<sup>27</sup>In October 1990, President Lee Teng-hui established a National Unification Council which adopted the Guidelines for National Unification on February 23, 1991. President Lee approved the Guidelines on March 5, 1991 and on March 14, 1991, the Executive Yuan (Cabinet) passed the Guidelines as the ROC's policy toward the mainland. The Guidelines confirm that "both the mainland and Taiwan areas are parts of Chinese territory" and calls upon the Chinese Communist regime "to end the state of hostility and, under the principle of one China, solve all disputes through peaceful means, and furthermore respect -- not reject -- each other in the international community." The Guidelines also reaffirm the ROC's national goal of establishing a democratic, free and equitably prosperous China," *The Free China Journal*, Vol. XIII, No. 18 (March 11, 1991). On May 1, 1991, President Lee announced the termination of the state of hostilities toward the Chinese Communist regime. "ROC terminates hostility toward Peking," *The Free China Journal*, Vol. XIII, no. 32 (May 2, 1991), p. 1. However, the Chinese Communist regime has not yet terminated its state of hostilities against the ROC on Taiwan.

This explanatory memorandum takes appropriate consideration of the Chinese Communist regime's concern on the issues of unification and "two Chinas." Thus, it specifically mentions inter-governmental organizations, in which both the mainland and Taiwan are members (ADB and APEC) or observers (GATT), implying that this may be a possible model for Taiwan's participation in the United Nations under the principle of "one China."

On August 11, 1993, the Permanent Representative of the People's Republic of China to the United Nations sent a note<sup>28</sup> to the United Nations, opposing the inclusion of the seven countries' proposed resolution in the agenda of the 48th Session of the General Assembly. The note claimed that the Chinese representation question has long been settled by 1971 General Assembly Resolution 2758 (XXVI) politically and procedurally and "parallel representation" is entirely out of the question. It likens Taiwan's "attempt to 'return' to the United Nations . . . [as] actually trying to split China, obstruct and sabotage the great undertaking of China's reunification" and notes that "[this] attempt has been and will continue to be resolutely opposed by the entire Chinese people, *including people in Taiwan*, and is, therefore, doomed to failure." (Emphasis added.)

The note's message that the people in Taiwan oppose the Republic of China's return to the United Nations is obviously contrary to fact. Moreover, this note ignores the main issue raised by the seven countries' proposed draft resolution, i.e., how to find an appropriate way to have the fundamental rights of 21 million Chinese in Taiwan properly represented in the United Nations.

#### **6. The United Nations Membership Issue and Taiwan-Mainland Relations**

The People's Republic of China has taken a totally negative attitude toward Taiwan's participation in the United Nations and other inter-governmental organizations such as the specialized or affiliated agencies of the United Nations, except the three organizations mentioned earlier (ADB, APEC and GATT). On August 31, 1993, the People's Republic of China released a White Paper, *The Taiwan Question and the Reunification of China*,<sup>29</sup> in which it is stated:

The sovereignty of each state is an integral whole which is indivisible and unsharable. The government of the People's Republic of China, as the sole legal government of China, has the right and obligation to exercise

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<sup>28</sup>U.N. Doc. A/48/306 (August 11, 1993).

<sup>29</sup>"'White Paper' on Taiwan, Reunification Issued," *Foreign Broadcast Information Service, China*, September 1, 1993, pp. 43-51.



state sovereignty and represent the whole of China in international organizations. The Taiwan authorities' lobbying for a formula of "one country, two seats" in international organizations whose membership is confined to sovereign states is a manoeuvre to create "two Chinas." The Chinese Government is firmly opposed to such an attempt.<sup>30</sup>

The *White Paper's* claim that the People's Republic of China exercise state sovereignty and represent the *whole* of China in international organizations is definitely not true as it has never exercised control over Taiwan. In a statement issued on September 16, 1993 by the Republic of China's Mainland Affairs Council concerning the *White Paper*, it was stated:

Since the establishment of the Chinese Communist regime, it has never extended its jurisdiction to Taiwan. It has no right to represent us in the international community and it has never asserted the rights or performed any obligation on behalf of people of the Taiwan region. The boycott and exclusion of the Republic of China in the international community by the Chinese Communists not only ignore the political reality, but also undermine the improvement of bicoastal relations.<sup>31</sup>

The PRC's policy to exclude Taiwan in the United Nations and its specialized or affiliated agencies and international community in general is, ironically, undercutting the PRC's attempts to achieve its goal of peaceful unification of China and in fact encouraging Chinese people in Taiwan to seek Taiwan independence rather than unification of China. Earlier, in a press conference held on April 30, 1991, President Lee Teng-hui already elaborated on this point as follows:

Why do so many people among us want to advocate independence for Taiwan? This is because Communist China blocks our various activities in the international community and leaves no way out for us. As a result, some youths and some people who are dissatisfied with what the Government has done went abroad and called for Taiwan independence. The call for Taiwan independence does not originate from within Taiwan. Rather, it is a result of Communist China's practice of isolating us from the international community. Personally, I believe that if Communist China understands this point, it would not want to hamper

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<sup>30</sup>*Ibid.*, pp. 49-50.

<sup>31</sup>Mainland Affairs Council of the Executive Yuan, "On 'The Taiwan Question and Unification of China,' -- There is only the 'China Question' and not 'Taiwan Question,'" *Chung-yang Jih-pao* (Central Daily News), Taipei: September 17, 1993, p. 3.

the various activities conducted by us in the international community. Letting the ROC have enough space in the international community is the way to truly promote the development of the ROC on Taiwan as well as reunification of our country. It is not a bad thing for all the Chinese people and will definitely be of great help to our country. Therefore, probably, I'll have to say that the leaders of Communist China are wrong in their thinking. They do not understand what gives rise to the call for Taiwan independence.<sup>32</sup>

Recently, Premier Lien Chan of the Republic of China pointed out in an article that there is no credible evidence that the ROC's participation in the United Nations would do anything to impair the prospects for the ultimate reunification of China. He wrote:

In fact, experience would suggest the contrary. In 1973, both East and West Germany entered the United Nations as full participants. The Marxist German Democratic Republic and the Federal Republic of Germany normalized their relations with the treaty of December [21,] 1972.<sup>33</sup> This dual membership arrangement did not inhibit the ultimate reunification of the German nation divided since the Second World War. Similarly, in the fall of 1991, North and South Korea simultaneously entered the United Nations as full participants. Neither Pyongyang nor Seoul has expressed any fears that this would obstruct the ultimate reunification of the Korean peninsula.

A case could be made that the full representation of all of China [i.e., including the 21 million people in the Republic of China on Taiwan] in the U.N. would foster, rather than retard, reunification by enhancing contact and interaction between Taiwan and the mainland in the neutral environment of international forums. Contact between Taiwan and the mainland in circumstances of equity and mutual regard could only solidify

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<sup>32</sup>"[Lee] Addresses News Conference, Ends Mobilization," *Foreign Broadcast Information Service, China*, May 3, 1991, pp. 53-54.

<sup>33</sup>Treaty on the Basis of Relations Between the Federal Republic of Germany and the German Democratic Republic, done at East Berlin, December 21, 1972. *International Legal Materials*, Vol. 12, No. 1 (January 1973), pp. 16-24. The Treaty entered into force on June 21, 1973. *International Legal Materials*, Vol. 12, No. 4 (July 1973), p. 1032. Both countries became members of the United Nations in 1973. Unification took place at midnight on October 2-3, 1990. Robert Jennings and Arthur Watts, *Oppenheim's International Law*, 9th ed., Vol. 1, Introduction and Part I, Harlow, Essex, England: Longman Group UK Limited, 1992, pp. 137, 138.

the foundation upon which a united, democratic and prosperous China might be built.<sup>34</sup>

### 7. Implications for U.S. Policy Toward China (Taiwan and Mainland) and U.S. National Interests

When the United States established diplomatic relations with the People's Republic of China on January 1, 1979, and terminated diplomatic relations with the Republic of China on the same date, the United States did not expressly recognize Taiwan as a part of the PRC or as under PRC sovereignty.<sup>35</sup> On the contrary, in the Taiwan Relations Act (TRA) of 1979,<sup>36</sup> enacted by the Congress with overwhelming

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<sup>34</sup>Lien Chan, "The Republic of China and the United Nations," *Strategic Review*, Summer 1994, pp. 12-13.

<sup>35</sup>In the joint communique establishing U.S.-PRC relations released on December 15, 1978 and entered into force on January 1, 1979, it is stated that "the United States of America acknowledges the Chinese position that there is but one China and Taiwan is part of China," *Department of State Bulletin*, Vol. 79, No. 2022 (January 1979), p. 25. However, in the Chinese text, the word "acknowledge" was translated into *Cheng-jen*, which, if retranslated into English, would mean "recognize." *Renmin Ribao* (Jen-min jih-pao in Wade Giles transliteration system, People's Daily), December 17, 1978, p. 1.

Deputy Assistant Secretary of State for East Asian and Pacific Affairs Roger Sullivan told the Taiwan press on December 27, 1978, that in the Joint Communique of December 15, 1978, the United States did not recognize the People's Republic of China's sovereign claim to Taiwan. *Chung-yang jih-pao* (Central Daily News), December 28, 1978, p. 1. However, at that point no public statement on the status of Taiwan had been made by a high level American official to the American press. In the *Taiwan Enabling Act, Report of the Committee on Foreign Relations United States Senate Together with Additional Views on S.245*, March 1, 1979, Washington, D.C.: U.S. Government Printing Office, 1979, p. 7, it is clearly reported:

The Administration has stated that it recognizes the People's Republic of China (PRC) as the sole legal government of China. It has also acknowledged the Chinese position that Taiwan is a part of China, but the United States has *not* itself agreed to this position. The bill submitted by the Administration takes no position on the status of Taiwan under international law, but does regard Taiwan as a country for purposes of U.S. *domestic* law. The bill assumes that any benefits to be conferred without regard to Taiwan's international legal identity.

<sup>36</sup>93 STAT. 14, 22 USC 3301.

majority of both houses provides in Section 4(a) as follows:

Sec. 4.(a) The absence of diplomatic relations or recognition shall not affect the application of the laws of the United States with respect to Taiwan, and the laws of the United States shall apply with respect to Taiwan in the manner that the laws of the United States applied with respect to Taiwan prior to January 1, 1979.<sup>37</sup>

The TRA also states in Section 2(c) that "[t]he preservation and enhancement of the human rights of all the people on Taiwan are hereby reaffirmed as objectives of the United States."<sup>38</sup>

Article 55 of the United Nations Charter provides:

With a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of the people, the United Nations shall promote: . . . universal respect for, and observance of, human rights and fundamental freedoms for all *without distinction as to race, sex, language, or religion*. (Emphasis added.)

Article 56 provides that all members "pledge themselves to take joint and separate action in co-operation with the Organization [i.e., the United Nations] for the achievement of the purposes set forth in Article 55." Can we say that the continual denial of the fundamental rights of the 21 million Chinese in Taiwan to be represented in the United Nations is consistent with the above cited principles provided in Article 55 of the United Nations Charter?

Therefore, to support the wishes of the 21 million Chinese people in Taiwan to have an appropriate representation under the principle of "one China," in the United Nations and its specialized or affiliated agencies is not only fully consistent with the declared policy of the United States but also with the Charter of the United Nations.

Moreover, the Republic of China on Taiwan represents a community that has risen from poverty and industrial backwardness to wealth and industrialization, whose developmental experience and capability to provide economic and technical assistance would certainly benefit many developing countries which both the United Nations and the United States try to help. When the United Nations and its specialized or affiliated

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<sup>37</sup>22 USC 3303.

<sup>38</sup>22 USC 3301.

agencies are beset by financial difficulties, it is unwise and impractical to deny membership status to the Republic of China on Taiwan, a country whose Gross National Product is the world's twentieth largest and who is willing and able to make significant contributions to these organizations through membership dues and donations,<sup>39</sup> thus indirectly reduce the financial burden of the United States who pays the largest share of dues and donations<sup>40</sup> to these organizations.

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<sup>39</sup>The People's Republic of China is among the largest recipients of the various United Nations' aid or technical assistance programs. The PRC has, however, made minimal contributions, even in membership dues, to the United Nations. When the Republic of China on Taiwan was represented at the United Nations, it paid four percent of the United Nations' regular budget. *Yearbook of the United Nations*, Vol. 24 (1970), New York: United Nations Office of Public Information, p. 861. The PRC's contribution to the United Nations' regular budget is only 0.77 percent in 1991, which is less than Mexico (0.88%). See *Yearbook of the United Nations*, Vol. 45 (1991), Dordrecht, Boston, London: Martinus Nijhoff Publishers, 1992, p. 880.

<sup>40</sup>The United States pays twenty-five percent of the United Nations' budget.

## HUNGDAH CHIU

LL.B., 1958, National Taiwan University; M.A., 1962, Long Island University; LL.M., 1962, S.J.D., 1965, Harvard University. Mr. Chiu, who has taught at National Taiwan University and at National Chengchi University in the Republic of China, was a research associate at Harvard Law School for six years. Between 1976 and 1982, Mr. Chiu annually attended the Third United Nations Conference on the Law of the Sea as an observer for the International Law Association. He was elected one of the 10 outstanding young men for 1971 by the Junior Chamber of Commerce of the Republic of China, and he received a Certificate of Merit, awarded by the American Society of International Law in 1976, a cultural award from the Institute of Chinese Culture, a National Reconstruction Award from the Chinese Academic Association in Mid-America in 1980, the Toulmin Medal for the best article in 1981 from the Society of American Military Engineers in 1982, and Outstanding Achievement Award from Mid-Atlantic Chinese Science and Technology Association in 1991. He was President of the Association of Chinese Social Scientists in North America (1984-1986); President of the American Association for Chinese Studies (1985-1987), and Chairperson of the Section on International Legal Exchange of the Association of American Law Schools (1986-1988); Chairperson of the Interest Group on the Law of Pacific Region of the American Society of International Law (1987-1993) and Minister without Portfolio [Minister of State] of the Executive Yuan (Cabinet) of the Republic of China on Taiwan (1993-1994). Currently, he is Professor of Law and Director of East Asian Legal Studies Program at the University of Maryland School of Law, President of the Chinese Society of International Law [Chinese (Taiwan) Branch of the International Law Association] (1993-present), Editor-in-Chief of the *Chinese Yearbook of International Law and Affairs* (both Chinese and English version) (1981-present), General Editor of the *Occasional Papers/Reprints Series in Contemporary Asian Studies* (1977-present), member of the Board of Directors, Straits Exchange Foundation (1993-present), and a Research Member of the National Unification Council of the Republic of China. He has written, edited and co-authored 22 books in English and in Chinese and more than 100 articles in the field of international law, comparative law, international relations and Chinese affairs. His books include *People's China and International Law* (with J. Cohen, 1974), *China and the Taiwan Issue* (1979), *Agreements of the People's Republic of China 1966-1980: A Calendar* (1981); *China: 70 Years After the 1911 Hsin-hai Revolution* (with S.C. Leng, 1984), *Criminal Justice in Post-Mao China: Analysis and Documents* (with S.C. Leng, 1985), *The Future of Hong Kong* (with Y.C. Jao and Y.L. Wu, 1987), *The Draft Basic Law of Hong Kong: Analysis and Documents* (1988); and *International Law of the Sea: Cases, Documents and Readings* (with Gary Knight, 1991).

## Taiwan and the United Nations

Testimony before the Subcommittee  
on International Security, International Organizations and Human Rights  
of the House Committee on Foreign Affairs,

by

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July 14, 1994

The United Nations was originally conceived not merely as an organization of governments, but of peoples. In the words of the Charter's preamble, "We the peoples of the United Nations . . . establish an international organization known as the United Nations." Thus, at least morally, the people of Taiwan are entitled to representation in the UN. Unfortunately, the UN has been more an organization of governments than of peoples.

The Taipei government is not now a member of the United Nations primarily because the Beijing government, considering Taiwan a province of the People's Republic, opposes (and is apt to veto) Taiwan membership. A secondary problem is that Taiwan ("The Republic of China") has generally claimed to be the legitimate government of the mainland. This claim was reiterated at least as recently as last year.<sup>1</sup> To my knowledge the claim has never been explicitly repudiated, but it has not been reiterated this year, and now the legitimacy of the Communists to rule the mainland is not normally challenged.

Taiwan's admission to the General Assembly would be beneficial in many ways. Of course it would be good for Taiwan itself, giving the people more self-respect and confidence about their future. It would be good for the UN, as the organization would be more representative of the world's peoples, and would benefit from the expertise of Taiwan's diplomats. The Taiwanese could be counted on to give financial support to the UN and related humanitarian undertakings. Already, the Symphony for the United Nations (an NGO) has invited businesses in Taiwan to become involved in its concert benefit performances.

The UN simply is not whole when an economic powerhouse like Taiwan is excluded. Taiwan's membership would be good for the cause of world democracy, as there would be one more pro-democratic vote. It would be good for the United States, as

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1. *Free China Journal*, February 1993, p. 16.

Taiwan would not be the largely "American problem" that it is today. And it would probably be good for China in that it would force Beijing to act more responsibly, and to focus on real problems of their already huge country, rather than borderland diversions. Also, China stands to benefit much more from trade with and investment from Taiwan than it would by incorporating Taiwan into the Chinese polity, which would not be helpful (and might be very harmful) to Taiwan's economy. It is also possible (but not inevitable) that bringing the Taiwan government more solidly into the family of nations will have a civilizing influence on the Taiwan government. Here I have in mind the Nationalists long-standing and continuing deep involvement in international organized crime, including criminal activities in the United States. These activities including alien smuggling, heroine trafficking, and crimes perpetuated by the Taiwan intelligence services. All this is far more detrimental to this country than is generally realized.<sup>2</sup>

I wish one could discuss the question of Taiwan's admission to the UN without any implications as to territorial sovereignty. But, although there have been cases where more than one government has represented divided or multi-national territories, the precedents turn out to be not very helpful.

First, there were the cases of Byelorussia (now Belarus) and Ukraine. Their membership in the UN at a time when they were constituent parts of the Soviet Union carried no implications as to sovereignty. Ideally, Taiwan could enter the UN with a similar separation of the sovereignty issue. Unfortunately, it is now universally agreed that the Byelorussia/Ukraine cases were unprincipled accommodations to cold war politics and should not stand as a precedent. Anyway, the two ended up as sovereign states, so our main audience in this matter, Beijing, would be unimpressed.

Then there are the more recent examples of the two Germanies and two Koreas. In both cases, however, the governments involved accepted each other's membership in the UN. In the case of Germany, in 1972 the old Hallstein Doctrine of non-recognition was abandoned and a treaty of friendship was signed. For nearly two decades the two governments considered themselves and each other as virtually sovereign--"two states, one Germany." Taiwan might be persuaded to accept such a formula, but it will be a long time before Beijing does.

There is some talk in Taiwan about following the Korean precedent, but this also is unrealistic. In 1972 South Korea agreed to accept cross-recognition (not breaking relations with any country that wanted to establish diplomatic relations with North Korea). In 1991 China more or less forced North Korea to come around to this position,<sup>3</sup> but the Beijing government itself now shows no signs of doing likewise with regard to Taiwan. Whereas for three years now both Koreas have had "relative legitimization" in the UN (i.e., acceptance only as the governments of the territory actually administered), Beijing is

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2. On the Nationalists' involvement in international organized crime, see the testimony before this subcommittee by Willard Myers, et al., November 4, 1993, and also the testimony of William Olsen et al. before the Subcommittee on Terrorism, Narcotics and International Operations of the Senate Committee on Foreign Affairs, April 21, 1994.

3. See Samuel S. Kim, "China's Korea Policy in a Changing Regional and Global Order," *China Information*, 8:1/2, 1993, especially pp. 75-78.



adamant that such a solution cannot be applied to the Taiwan situation (though Taiwan appears ready to accept "double recognition"). Thus, all countries must select between the People's Republic of China (PRC) and the Republic of China (Taiwan). Only 29 countries now choose the latter (and they are not very important ones), whereas Beijing claims recognition by 158. The dramatic tussle over Niger's recognition two years ago reveals how seriously these matters are still taken.<sup>4</sup>

We need to bear in mind how the present awkward situation came about. For decades, the Chiang family gave priority to perpetuating their private political control of Taiwan. This required adhering to the principle that Taiwan was merely one tiny province in the great "Republic of China" (ROC), and therefore the Taiwanese were not entitled to have a substantial voice in the government. This rationale for undemocratic government meant that the authorities were free to act foolishly and without accountability. Thus, in 1971 they allowed themselves to be expelled from the General Assembly. This served the Chiang family well but was highly inimical to the real interests of the people of Taiwan; indeed, the virtual walkout has to be seen as one of the great diplomatic blunders in UN history. Had the General Assembly seat been retained as a Taiwan seat, we would not have to be discussing these issues today. Many Taiwanese in the 1970s realized that a mistake was made, but those who spoke out went to prison. In the wake of Taiwan's recent democratization, such voices cannot be silenced.

The question of Taiwan independence vs. unification is a matter for the people of Taiwan to decide, as is their right. The very first articles of both the International Covenant on Civil and Political Rights, and The International Covenant on Economic, Social and Cultural Rights, identically assert:

All peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development. . . . The States Parties to the present Covenant . . . shall promote the realization of the right of self-determination. . . .

Even assuming that Taiwan historically was part of China,<sup>5</sup> there are plenty of recent precedents for countries to divide into separate countries.<sup>6</sup> While I am taking no position on the appropriateness of Taiwan's taking such a step, it would appear that most people on Taiwan desire UN membership, and there is little or no explicit opposition. But there is a bit of a contradiction in that only a minority favor (or dare support) outright independence, and virtual independence is a prerequisite to UN membership.

Ultra-conservatives such as former premier Hau Pei-tsun strongly oppose any kind

4. See George T. Yu and David J. Longenecker, "The Beijing-Taipei Struggle for International Recognition: From the Niger Affair to the U.N.," *Asian Survey*, May 1994, pp. 477 f.

5. Actually, Taiwan's administrative relationship with the mainland was generally quite loose. The island was administered in a serious way by a China-based government for only brief periods--the late nineteenth century, and 1945-49.

6. To cite a few: Pakistan, the Soviet Union, and Czechoslovakia. The divisions of these countries (e.g., the creation of Bangladesh) were readily accepted by the international community, and posed no serious problems in international law.

of independence (in part because it means the end of the unification dream, and in part because it would be too provocative *vis à vis* Beijing)<sup>7</sup> and are thus worried that President Li Teng-hui is leading the country down a dangerous path. With such pressures from the right, President Li seems unable to break out of the old mold. Last week, Taipei did issue a 15-thousand character "White Paper" on relations with the PRC,<sup>8</sup> but that document, and the accompanying statements from various officials, lacked the clarity that the issue requires. The White Paper pleads that Taiwan is a "political entity," juridically equal to but separate from the mainland and operating under its own rules, with questions of sovereignty being shelved. But the "shelving" is only to be temporary, and the White Paper still calls for "reunification," and opposes the concept of "two Chinas" or "one China, one Taiwan." Premier Lien Chan has been particularly adamant on this point, stressing that the purpose of the policy shift is to change the nature of the game from zero-sum. Thus, the Kuomintang's (Chinese Nationalists') gain/loss is not to be the Communist Party's loss/gain. In Premier Lien's words, "Realizing reunification does not mean that either side wins or survives at the other's expense."<sup>9</sup> All this is intended to reassure Beijing, the hope being that trust and confidence between the two sides can be built. This is a worthy but probably hopeless goal.

Taipei is now asking for "equal access to the international community." We should not take this too literally, for Security Council membership is not an issue. But if the government is serious about gaining UN membership it should bite the bullet and establish itself as a nation state, and then round up support of the sort that will preclude China's using her veto power. Again, this is not something that I advocate (or oppose), but if Taipei is serious about UN membership, that is what must be done. Ambiguous moves such as last week's White Paper will only antagonize Beijing without advancing the cause of UN membership. (Beijing has already condemned the White Paper as "advocating the creation of two Chinas."<sup>10</sup>)

The real message of the White Paper is that the Taipei government lacks the political will to do what is necessary to establish Taiwan as an entity eligible for UN membership. Under these circumstances, there is little role for the U.S. Congress to play. The United States can lend support when that support is asked, but it has never been able to, and cannot now, save the Chinese Nationalists from the folly of their ways. Our role should always be largely limited to insisting that they, and all governments, abide by international human rights standards. (Since Taiwan's human rights record has vastly improved in recent years, the United States should commend the authorities for that.) But

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7. See Hau interview in *South China Morning Post* (Hong Kong), 28 June 1994, p. 7, U. S. Foreign Broadcast Information Service, *Daily Report: China* (hereafter: FBIS), June 28, 1994, p. 87.

8. Mainland Affairs Council of the Executive Yuan, "White Paper on Cross-Strait Relations," Taipei, July 5, 1994. Apparently this was a reaction to a parallel document which had been published by Beijing: "The Taiwan Question and the Reunification of China," translated in U.S. FBIS, September 1, 1993, pp. 43-54.

9. BBC, July 8, 1994 (NEXUS).

10. *South China Morning Post*, July 8, 1994 (NEXUS).

beyond this the U.S. should not try to run their affairs. If the U.S. gets out in front, it will stimulate Beijing's paranoia. **It is important that, whatever Taiwan decides, it be a purely domestic decision, without any prompting from the U.S.** Were America to take the lead, say, in promoting Taiwan's independence, Chinese in and out of power would blame America for dividing the country, and, were things to go sour, the U.S. might also be blamed by the Taiwanese. At any rate, the United States needs to be very clear about what responsibilities it wants to assume under various scenarios, including worst-case ones. In addition, if we do take an active role in advancing the cause of General Assembly membership, we should insist on some *quid pro quo*. These might be in the area of the ROC's ending its involvement in international organized crime, improving its environmental record (such as greater protection for endangered species), and being more liberal in the granting of visas to American citizens.

But U.S. help is not all that important. What counts is how skillfully the Taipei government manages the UN issue in the context of its relations with the People's Republic of China. The White Paper is not too reassuring. Gaining UN membership is going to require great political and diplomatic skill. A way must be found to attain virtual sovereign-state status without provoking Beijing into taking military action. Already ROC spokespersons sometimes refer to Taiwan as independent and sovereign,<sup>11</sup> though it is not clear whether this is yet the official line. Usually, the "i" word is shunned, to avoid antagonizing Beijing and right-wing extremists on Taiwan. But what is important is the substance, not the terminology. So far, we have seen little substance.

As Beijing sees the situation, both Taiwan's Nationalists and especially the pro-independence Democratic Progressive Party are on the wrong side of history. The Chinese see maximizing the territory of the People's Republic as a historical imperative. Actually, it is they who are misreading history. The world has undergone several waves of empire-dissolution or decolonization, culminating in the demise of the Soviet Union. Today the world trend is toward the realization of truly national states, with the establishment of the Czech Republic and Slovakia as the most recent cases in point. In desperately trying to hold onto places like Tibet and gain control over Taiwan, the Chinese are fighting this trend. They will not be able to do so successfully, but the break-up of the Chinese empire will be no less painful for China than it was for Spain, France, the Netherlands, and Soviet Russia. Beijing knows that relinquishing Taiwan is the first step down a road they do not wish to travel. The United States must be careful not to push, lest it be blamed for the whole phenomenon of empire collapse. But certainly we should not stand in the way.

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11. Government spokesman Jason C. Hu was quoted in the *New York Times* (June 24) as saying: "We are an independent sovereignty at the moment. There is no one above us. But all this is being done under a one-China policy. . . . There are two political entities."

## CURRICULUM VITAE (ABBREVIATED VERSION)

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*China: The Politics of Revolutionary Reintegration*  
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*The Fifth Modernization: China's Human Rights Movement, 1978-1979*  
(New York: Earl M. Coleman Enterprises, 1980).

*China Rights Annals, Volume 1: Human Rights Developments in the  
People's Republic of China, October 1983-September 1984*  
(Armonk, N.Y.: M. E. Sharpe, Inc: 1985)

*China's Satellite Parties* (Armonk, N.Y.: M.E. Sharpe, 1987)

*Introduction to Comparative Politics* (co-author).  
New York: Harper and Row, 1985. Author of  
China section for all editions. Third edition in 1993.)

## Recent articles:

"China's Democracy Movement: What the Agenda Has Been Missing," in Susan Whitfield, ed., *After the Event: Human Rights and Their Future in China* (London: Wellsweep, 1993).

"Review Essay: Toward an East Asian Confederation of Independent States?" *Bulletin of Concerned Asian Scholars*, 1993, 24:3.

"The Rights of Ethnic Minorities in China: Lessons of the Soviet Demise," *American Asian Review*, 2:2, Summer 1993, 401-413.

"Human Rights in Chinese Foreign Relations," in Samuel S. Kim, ed., *China and the World: Chinese Foreign Relations in the Post-Cold War Era* (Boulder, Colorado: Westview Press, 1994).

Prepared Statement by Lung-chu Chen, Professor of Law, The New York Law School, Before the Joint Hearing on SHOULD TAIWAN BE ADMITTED TO THE UNITED NATIONS, by the Subcommittee on International Security, International Organizations and Human Rights and the Subcommittee on Asia and the Pacific, U.S. House Committee on Foreign Affairs, July 14, 1994, Thursday.

Chairman Lantos, Chairman Ackerman, Members of the Subcommittees:

Good morning! I am Lung-chu Chen, Professor of Law at The New York Law School, Research Affiliate in Law at Yale Law School, and President-Elect of the North America Taiwanese Professors' Association (NATPA). I deeply appreciate the opportunity to be here today to address an important and timely issue; I am especially glad because I just returned the day before yesterday from Taiwan, as a visiting professor of law at National Taiwan University, my alma mater.

# I.

Should Taiwan be admitted to the United Nations? Of course, Taiwan should be admitted to the United Nations--and it is high time.

Taiwan's admission to the United Nations is the overriding, shared demand and expectation of the people of Taiwan today. This was the distinctive impression I got during my several visits to Taiwan in 1993, giving lectures and speeches, and the impression was greatly reinforced during my recent visiting professorship at National Taiwan University.

Taiwan has existed as a sovereign, independent state for more than forty years. The question today is to acknowledge Taiwan as an independent state in name as well as in fact. The fact of Taiwan's independent existence is well known in the world community; what is increasingly at issue is whether to call this sovereign, independent entity "the Republic of China," "the Republic of China on Taiwan," "the Republic of Taiwan," or simply "Taiwan."

Taiwan is an island nation, not part of continental China. Taiwan is Taiwan and China is China. They are two separate sovereign states, differing fundamentally in their political, economic, and social systems. Taiwan is not part of China. Taiwan's present and future destiny is not an internal affair of China.

Despite all its rhetoric of Taiwan being part of China, the People's Republic of China (PRC), since its founding in 1949, has never extended its actual jurisdiction and effective control over Taiwan. China's territorial claim to Taiwan is as absurd as Iraq's

territorial claim to Kuwait.

## II.

Historically, Taiwan, once better known as Formosa, was populated over centuries by migrations of southern Chinese who crossed the 100 mile Taiwan Straits and pushed the indigenous peoples into the mountainous part of the island. For most of its history, Taiwan's relationship to the Chinese Empire was tenuous at best, while such western powers as the Dutch and Spain vied for colonial control of the island.

In 1895, Taiwan was ceded by treaty to Japan as a result of the Sino-Japanese war, and Taiwan became a colony of Japan until 1945. At the end of World War II, after the Japanese surrender, General MacArthur instructed Chiang Kai-shek, then Generalissimo of the Republic of China, to administer Taiwan pending the resolution of its ultimate disposition. Thus Chiang's KMT regime acquired de facto control of the island as a form of military occupation on behalf of the Allied Powers.

Several significant events ensued: the mass massacre of Taiwanese elites during the 228 uprising of 1947 against the atrocities of Kuomintang's (KMT's) occupation forces; Chiang's exile to Taiwan after being kicked out of the Chinese mainland as a result of the establishment of the People's Republic of China (PRC) in 1949; and the drastic increase in strategic importance of Taiwan for the United States in the Western Pacific after the outbreak of the Korean war in June 1950.

To terminate the technical status of hostility toward Japan, the Allied Powers concluded the San Francisco Peace Treaty with Japan in September 1951. The Peace Treaty made Japan renounce all her "rights, title and claim" to Taiwan, but did not specify any beneficiary state. The Peace Treaty with Japan was the authoritative instrument that formally terminated Taiwan's status as a colony of Japan and delimited its new status; the Peace Treaty superseded, under international law, the war-time declarations made by the Allied Powers at Cairo and Potsdam, insofar as the disposition of Taiwan (Formosa) was concerned. Thus, Taiwan was legally detached from Japan, but was not attached to China or any other country. The shared expectation of the parties to the Peace Treaty was that Taiwan's status, though temporarily left undetermined, would be decided at an opportune time in accord with the principles of the United Nations Charter--notably the principle of self-determination of people and the principle of non-use of force for acquisition of territory.

Such an opportune time came and went away some twenty three years ago, when the United Nations failed to adopt a "one China, one Taiwan" formula to resolve the Chinese representation question in the United Nations. According to the "one China, one Taiwan"

formula, both China and Taiwan would have been seated as separate states in the United Nations, with People's Republic of China occupying China's permanent seat in the Security Council. However, in October 1971, the U.N. General Assembly, by Resolution 2758, voted to seat the People's Republic of China and to "expel" "the representatives of Chiang Kai-shek."

Thus, the tables were turned: China was in and Taiwan was out. An old myth was replaced by a new myth. The old myth was that Chiang's KMT regime represented China as well as Taiwan in the United Nations. And the new myth was that the PRC represented Taiwan as well as China in the United Nations. The status of Taiwan (a colony of Japan from 1895 to 1945), which was the crux of the Chinese question in the United Nations, was not addressed at all.

### III.

Although Taiwan has been kept outside the United Nations for the past 23 years and its formal diplomatic relations with other countries have greatly shrunk, Taiwan has not ceased to exist. China's claim or threat to Taiwan remains one of mere rhetoric.

Thanks to the concerted efforts of its intelligent, hardworking people, Taiwan has become a prosperous country economically, earning the nickname of one of the four small dragons in East Asia.

Judged by the international legal standard of statehood, Taiwan is a sovereign, independent state in every sense of the word. According to this standard, an independent state must have control over people and a defined territory, and a government capable of governing effectively in internal processes and acting responsibly in external relations. Taiwan has more than fulfilled all these requirements. The sovereignty of Taiwan rests upon the people of Taiwan.

Americans' sense of fair play and democracy should be shocked at Taiwan's continuing absence from the United Nations. With a population of 21 million, Taiwan has more people than more than three quarters of the 184 member states of the United Nations. It has more people than Australia or Venezuela. Taiwan has more people than Norway, Sweden and Finland combined. With a \$210 billion GNP and an annual per capita income exceeding US\$ 10,000, Taiwan is a prosperous trading state and has been a leading holder of foreign exchange reserves for years. Taiwan is the 14th largest trading nation in the world and the 5th largest trading partner of the United States.

In addition to economic development, Taiwan is an island nation that is undergoing profound political transformation through the processes of democratization and Taiwanization. The tempo for

democratization in Taiwan has greatly accelerated in recent years, beginning with the termination in 1987 of the 39-year martial law and the creation of a major opposition party, the Democratic Progressive Party (DPP). The Taiwanization process has been further enhanced by the forced retirement of the aged parliamentary members from the KMT's Mainland days. With the subsequent election of all members of the National Assembly in 1991 and the election of all members of the Legislative Yuan in 1992, Taiwan at last has an equivalent of a parliament that represents the present population of Taiwan and reflects the political realities of Taiwan.

With all its shortcomings and tension, this remarkable political transformation toward democracy, along with impressive economic development, is what **the Taiwan experience** is all about. This I would call self-determination in action for the people of Taiwan. Both the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social, and Cultural Rights, in their respective Paragraph one of Article 1, define the right of self-determination in these words: "All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development." Indeed, thanks to their common efforts in recent decades, the people of Taiwan, both at home and abroad, have become the master of their own political destiny and have developed a distinctive economic, social and cultural system of their own, in pursuit of the shaping and sharing of democracy and other human dignity values.

#### IV.

As a democratized and revitalized Taiwan looks toward the international arenas to share with others the Taiwan experience, it is time that Taiwan be made a member of the United Nations and of other international governmental organizations. Taiwan's active participation in various international arenas as Taiwan, not as a truncated China, would serve the common interests by affording the people of Taiwan respect, dignity and participation, by serving the long-term interests of China, and the interests of the world community.

As an independent country, Taiwan should take the initiative to apply for admission as a new member of the United Nations, in accordance with Article 4 of the Charter of the United Nations.

Article 4, paragraph 1, prescribes the substantive conditions for a new member in these terms:

"Membership in the United Nations is open to all other peace-loving states which accept the obligations contained in the present Charter and, in the judgment of the Organization, are able and willing to carry out these obligations."



In other words, the conditions of admission of a new member are: (1) the applicant must be a state (country); (2) it must be peace-loving; (3) it accepts the obligations of the U.N. Charter; and (4) it is able and willing to carry out the Charter obligations in the judgment of the United Nations.

Judged by these conditions, Taiwan of course is amply qualified to be a new member of the United Nations. As I discussed above, Taiwan has in fact existed as a sovereign, independent state for quite some time. It will be deemed peace-loving insofar as it discontinues the lingering KMT claim to represent China, to "unify" China, or to retake mainland China.

In applying for a new membership under Article 4 of the U.N. Charter, Taiwan would encounter a formidable obstacle, that is, a potential veto by China (PRC). Article 4, paragraph 2, of the Charter stipulates that the admission of any new member in the United Nations will be "effected by a decision of the General Assembly upon the recommendation of the Security Council." As interpreted by the International Court of Justice, the recommendation of the Security Council must precede the General Assembly decision. That means, under Article 27 of the Charter, China possesses a veto power over Taiwan's application for admission to membership.

In the face of a potential veto by China, wouldn't it be an exercise in futility for Taiwan ever trying to apply for a new U.N. membership?

Definitely not!

By applying for a new U.N. membership, Taiwan will clearly demonstrate its basic national character as a sovereign, independent state, and assert emphatically the fundamental dignity and human rights of the people of Taiwan. It would help mobilize the efforts and resources of all Taiwanese, both at home and abroad, toward developing Taiwan's international and security position and playing greater roles in international arenas. It would facilitate the sharing of the Taiwan experience, both political and economic, with other members of the world community.

Hence it appears that for Taiwan to apply for admission to the United Nations as a new member under the Article 4 procedures is the right, yet difficult, way of entering the world organization.

#### V.

Opponents to this straightforward approach of admission have suggested various alternative formulas in order to circumvent the potential veto by China or to serve other ulterior purposes. Notable among these alternative formulas are:

(1) The Chinese representation formula: Proponents of this formula, inspired in part by the precedent of repealing the "Zionism is racism" resolution, seek to replace the People's Republic of China (PRC) by the Republic of China (ROC) by virtue of overturning General Assembly Resolution 2758 of 1971. Resolution 2758, it may be recalled, is the General Assembly resolution that seated the PRC in the U.N. and expelled the Chiang Kai-shek's delegation from the U.N. in October 1971.

(2) The formula of "one country, two seats" or "one country, two representations": This formula attempts to extend the so-called "one China" policy to the realm of U.N. membership by purporting to reflect "the present reality of China being divided into two political entities."

(3) The observer formula: Proponents of this formula counsel the Taiwanese people to be patient and be content as a U.N. observer for now.

(4) The back-door formula: Proponents of this formula urge Taiwan to obtain membership in various secondary international organizations (such as the International Sugar Organization and the International Tropical Timber Organization), in the hope that eventually a back door to the United Nations would be open to Taiwan.

These alternative formulas, at first glance, seem to be quite "clever" and "pragmatic," but cannot withstand critical scrutiny.

The question of Taiwan's new membership in the United Nations, as indicated above, is properly that of admission of a new member. It is not a re-opening of the Chinese representation question in the United Nations by "returning" the ROC to the U.N. Attempts to replace the PRC by the ROC by overturning GA Resolution 2758 of 1971 would tend to confuse the issue. The repeal of the Zionism - is-racism resolution is inapposite here. For Taiwan to present itself as Taiwan, representing the 21 million people of Taiwan and their aspirations and interests, would gain wide international support. On the other hand, posturing itself as the "authentic" China under the banner of the "Republic of China" in order to oust the PRC from the U.N. would make Taiwan a laughing-stock of the world.

Similarly, the formula of "one country, two seats" or "one country, two representations" appears to be another desperate attempt at perpetuating the bankrupt and dangerous policy of "one China" without facing contemporary realities. The analogies of the simultaneous admission of two Germanys and two Koreas into the United Nations are not apposite here. When the two Germanys (West and East) and the two Koreas (South and North) joined the United Nations, they were admitted to the U.N., at the same time, as two separate members on the basis of their separate statehood; the

actual formula applied was "two countries, two seats," rather than "one country, two seats." Moreover, unlike the China-Taiwan situation, none of them had a prior presence in the U.N. as a permanent member of the Security Council capable of casting a veto to reject its rival.

The analogy to the Soviet Union, Ukraine and Byelorussia as three of the original 51 member states of the United Nations is equally inappropriate. The acceptance of both Byelorussian SSR and Ukrainian SSR in 1945 (then, two of the 15 Republics of USSR) was a unique concession extracted by Stalin, who demanded that all fifteen Republics of the USSR be made original members of the United Nations at its founding. A comparable compromise for admission of new members today would of course be contrary to the letter and spirit of the U.N. Charter.

The observer formula and the back-door formula appear to be extremely timid and round-about ways that can hardly do justice to the people of Taiwan and tend to postpone confronting the moment of truth. They are contrary to the principle of universality for U.N. membership.

In any event, it is important to remember that the question of Taiwan's admission to the United Nations is a decision to be made by all of the U.N. member states in accordance with the purposes, principles and procedures of the U.N. Charter. It is not a matter for China to dictate, nor is it a matter merely for private negotiation between China and Taiwan.

## VI.

At this critical moment, the best strategy for Taiwan is a grand strategy of simultaneity--a strategy of action now. Taiwan should simultaneously apply for membership in the United Nations and in other relevant international governmental organizations.

Undoubtedly, such an undertaking would encounter formidable difficulties--but, in the ultimate sense, not much more than the task of seeking to get admitted, one by one, to some of the secondary international governmental organizations. It is an approach which is right and straightforward, and is worth fighting for.

In this grand endeavor, it would appear that the name (title) of "Taiwan" is quite proper and fitting for the purposes of membership application. The title of Taiwan signifies a political as well as geographical term. "Made in Taiwan" has a very familiar and natural ring to it. In fact, such countries as Japan, Canada, Malaysia and New Zealand are used much in the same vein.

Recently, on July 27, 1993, the ROC and South Korea agreed to reestablish unofficial ties severed when South Korea switched

diplomatic recognition to the PRC nearly one year ago. According to the agreement, the new ROC office in South Korea will be designated "Taipei Mission in Korea," while the South Korean office will be called the "Korean Mission in Taipei." To use "Taipei" instead of "Taiwan" is another example of the KMT regime's act of self-contempt, lacking the courage and self-respect of calling Taiwan "Taiwan." (Or, is the KMT seeking to carve out Taipei as an independent political enclave?)

Similarly, in the current reappraisal of the United States policy toward Taiwan, how to rename the Coordination Council for North American Affairs (CCNAA)--using Taiwan, Taipei or something else--has generated considerable debate. It appears that as the counterpart of American Institute in Taiwan (AIT), the CCNAA should be renamed "Taiwan Institute in America" (TIA). It takes courage, however, for both U.S. and Taiwanese governments to make this simple and obvious change.

In case there is any quarrel as to whether "Taiwan," "the Republic of China," "the Republic of Taiwan" or "ROC on Taiwan" is more desirable, a referendum (plebiscite) by the people of Taiwan would be a helpful device. A referendum is meaningful only when conditions of genuine freedom of expression prevail. In other words, it is essential that access to the media of mass communication--broadcasting media as well as print press--be genuinely open and fair. The KMT monopoly of TV networks has to change. When Taiwan's application for U.N. membership--both in substance and in name--is based on the popular will of the people, as manifested through referendum processes, it would enhance both internal unity and external support.

## VII.

In its quest for membership in the United Nations and other international governmental organizations, Taiwan naturally will try to win the support of as many member states of the United Nations as possible. In addition, Taiwan will make special efforts to win the support of China in terms of long-term common interests. If China (PRC, that is) leaves Taiwan alone, Taiwan should stand ready to establish and maintain friendly relations with China as two independent, sovereign states on the basis of equality, brotherhood, mutual respect and benefits. Such ties could further be fortified by concluding a Sino-Taiwanese treaty of friendship, commerce and navigation according to international law and practice. Two "political entities" on both sides of the Taiwan Straits, as they are commonly called, are indeed two separate, independent states--their relationship should be one of the equality of states, not that of domination and subordination or that of central and provincial governments.

Both Taiwan and China have a lot to gain by cooperation in economic and trade relations. Politically, a Taiwan that harbors

no pretension of "representing" or "unifying" China, and devotes itself to the task of building a viable, island nation of Taiwan in pursuit of democracy, freedom, and other human rights would serve not only the best interests of the people of Taiwan, but also the long term interests of the people of China. The people of China would be the real beneficiaries in the long run when their leaders draw meaningful lessons from the Taiwan experience in political as well as economic terms. The Taiwan experience means not only an "economic miracle" resulting from a free market economy but also concomitant political developments toward democracy, freedom and human rights--toward a wider shaping and sharing of power, respect, wealth and other values.

#### VIII.

A journey of one thousand miles begins with the first mile. It is time for Taiwan to take the first step.

The 1993 proposal by seven central American countries, asking the General Assembly to consider ways and means of seating Taiwan in the United Nations, might signify such a first step. On August 6, 1993, Belize, Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and Panama jointly requested that the 48th session of the General Assembly include a new agenda item entitled "consideration of the exceptional situation of the Republic of China in Taiwan in the international context, based on the principle of universality . . . ." In their note sent to Secretary General Boutros Boutros-Ghali, the seven states pointed out that Taiwan is "a dynamic and progressive member of the international community and a peace-loving country" that deserved membership in the United Nations and its related agencies. Their proposal included a draft resolution that would establish a committee to study and then recommend an "equitable, rational, and practical solution which will enable the Republic of China in Taiwan to become a full member of the United Nations." The committee would be mandated to make its recommendation to the 49th session of the General Assembly which convenes in September 1994.

Unfortunately, the U.N. General Assembly refused, in September 1993, to consider the matter. It was a great injustice and a big disappointment to the people of Taiwan.

It is hoped that serious efforts will be made to give effective expression to the principle of universality in U.N. membership. It is incumbent upon the members of the United Nations to do what is right in accord with the letter and spirit of the U.N. Charter. It will be a decision for the member states of the U.N. to make, not for "the Chinese on both sides of the Taiwan Straits" to work out by themselves.

#### IX.

Finally, it cannot be overemphasized that God helps those who help themselves. The initiative and the drive for Taiwan's membership in the U.N. and other international governmental organizations must come from all the people of Taiwan. This is a non-partisan matter, requiring the cooperation of all--officials and the rank and file; the ruling party and the non-ruling parties; Taiwanese both at home and abroad.

Above all, the KMT regime must rid itself of its dangerous, outdated policies, the same policies that 23 years ago squandered Taiwan's chances for its rightful representation in the United Nations and other international governmental organizations. The unthinking reflex of the so-called one China policy inherited from the two Chiangs (father and son) is today so irresponsible and harmful to the people of Taiwan, so detrimental to the present and the future of Taiwan. Today it is quite clear that any person of any consequence in the world (except perhaps a handful of KMT powerholders who are accustomed to self-delusion) understands "China" to mean the PRC, not the ROC. Thus, for the rulers of Taiwan to perpetuate (or echo) the myth that there is only one China and that Taiwan is part of China is the height of irresponsibility, malice, and folly.

What China does is not within the control of the people of Taiwan. But what the government of Taiwan says and does should be held accountable to the Taiwanese people. In a democracy a government must be responsible to its people; and when the government pursues a path of self-destruction by perpetuating a fantasy, the people must call a halt to it. The people of Taiwan must now work together to ensure that their government suffers no more self-inflicted wounds and that it bases its policies on present realities, not past myths.

Make no mistake about it--it will be a long, uphill fight for the people of Taiwan to become a member of the United Nations. It took China 22 years to be seated in the U.N. The people of Taiwan must be prepared for a long struggle.

It is high time for the people concerned with the future of Taiwan in the world community to work together, with vision, understanding and good will, to achieve the common good for all.

The people of Taiwan are doing their best in their drive for admission to the United Nations. They deserve the strong support of the United States and other members of the United Nations.

**Lung-chu Chen's Biographical Sketch**

Dr. Lung-chu Chen is Professor of Law at The New York Law School and Research Affiliate in Law at Yale Law School. He received his Bachelor of Laws (LL.B.) degree from National Taiwan University (1958), his Master of Laws (LL.M.) degree from Northwestern University (1961), and his LL.M. (1962) and Doctor of the Science of Law (J.S.D.) degrees from Yale University (1964). He ranked first of 4000 participants in Taiwan's national examination for judgeship and other high governmental posts in 1957, and graduated number one from the Department of Law of the National Taiwan University in 1958.

Currently, Professor Chen serves on the Board of Editors of AMERICAN JOURNAL OF COMPARATIVE LAW, and the Executive Committee and Governing Council of International League for Human Rights. He is a member of the American Law Institute and of the Council on International Affairs and Committee on International Human Rights of the Association of the Bar of the City of New York. Formerly, he was the editor of HUMAN RIGHTS, the official journal of the ABA Section on Individual Rights and Responsibilities. In addition, he is a former chairman of the Section on International Law of the Association of American Law Schools and a former member of the Executive Council of the American Society of International Law. He will be President of the North American Taiwanese Professors' Association (NATPA), October 1994 to September 1995.

Professor Chen is the author of AN INTRODUCTION TO CONTEMPORARY INTERNATIONAL LAW: A POLICY-ORIENTED PERSPECTIVE (Yale University Press, 1989), THE EVOLUTION AND REGRESSION OF THE STATUS OF THE ISLAND NATION OF TAIWAN--FORTY YEARS AFTER THE SAN FRANCISCO PEACE TREATY (1991) (in Chinese) and THE INDEPENDENCE AND NATION-BUILDING OF TAIWAN (1993, Moon Sun Publishing Co., Taipei; 1970) (in Taiwanese-Chinese). He is also coauthor of HUMAN RIGHTS AND WORLD PUBLIC ORDER (1980) (with Myres S. McDougal and Harold D. Lasswell) and of FORMOSA, CHINA, AND THE UNITED NATIONS (1967) (with Lasswell).

His teaching interests include International Law, American Constitutional Law, and Human Rights Law.

TAIWAN AND THE UNITED NATIONS:  
LOOKING BACK AND LOOKING FORWARD

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Harvey J. Feldman  
U.S. Ambassador, retired

(Note: The author, a former Alternate US Representative to the United Nations with the rank of ambassador, retired from the Foreign Service after a 32 year career as a Taiwan and East Asia specialist. As Country Director for Republic of China Affairs 1977-79, he invented and designed the American Institute in Taiwan which substitutes for our former embassy there. He also elaborated the legal theory under which it was possible to maintain treaties and agreements with a government we no longer recognized.)



In an April 1993 interview, ROC President Lee Teng-hui said, "We will actively seek participation in the United Nations. We hope the international community will seriously consider this issue within the next three years."

On July 4, 1993, ROC Foreign Minister Frederick Chien told a television audience, "I hope the people will tell their foreign friends that it is unfair and wrong for the international community to refuse to accept 20.8 million people who want to join the United Nations."<sup>1</sup> Later that month, speaking on July 29 at the second annual ROC-Central American Joint Cooperative Committee Conference in San Jose, Costa Rica, Chien asked the nations represented at the conference to speak in favor of ROC membership in the United Nations during the "General Debate" portion of the 1993 session of the UN General Assembly.<sup>2</sup>

Lu Hsiu-lien, a member of the ROC Legislative Yuan, in 1991 formed an organization called, "Taiwan for the United Nations; the United Nations for Taiwan". In September 1993 she opened an office in New York near United Nations headquarters to lobby for Taiwan's entry into the UN.<sup>3</sup>

Is Taiwan serious? Can the ROC really hope to rejoin the United Nations?

#### A Little History

In October 1971, the General Assembly rejected a US-sponsored resolution to make the issue of Chinese representation in the United Nations an "Important Question", meaning one requiring a two-thirds majority. The vote was 55 in favor, 59 opposed, with 15 abstentions. That procedural motion had been offered by the United States every year since 1961 to make sure that the PRC could not be voted in by a simple majority. That year, 1971, the fight was particularly dramatic because the US was no longer seeking to block Beijing's entry. Instead, it was trying to establish as a principle that both the PRC and the ROC should have seats in the UN.

But the attempt to establish "Dual Representation" came just a few months after the dramatic announcement that Henry Kissinger, President Nixon's Assistant for National Security Affairs and chief foreign policy adviser, had made a secret visit to Beijing and that Nixon soon would make the trip himself. Indeed, on the very day the vote was held on the Important Question resolution, Mr. Kissinger was in Beijing for a second time, helping to prepare for the Nixon visit.

The American strategy was to hold the line on the Important Question resolution, then assemble a blocking third plus one to defeat the resolution to expel the ROC, and thereafter pass the

Dual Representation resolution. But the defeat of the Important Question resolution made plain that the resolution to seat the PRC representatives and expel those of the ROC would be passed. Sure enough, by a vote of 76 to 35, with 17 abstentions, the General Assembly went on to adopt Resolution 2758, put forward by Albania, Algeria, Cuba and other third world and communist countries, expelling the representatives of the ROC from the General Assembly, and seating the representatives of the PRC in their place. Resolution 2758 having been adopted, the Dual Representation resolution which would have seated Beijing's representatives while preserving Taipei's seat in the General Assembly, was considered to be overtaken by events and never put to the vote.

The text of Resolution 2758 is rather peculiar.<sup>4</sup> It speaks of "restoration of the lawful rights of the People's Republic of China", as though the PRC had been seated earlier. It never mentions the Republic of China, instead using the term "representatives of Chiang Kai-shek", in keeping with PRC practice at the time of refusing to consider the ROC as anything other than a personal clique or faction. In point of fact, the General Assembly under its Rules of Procedure, decides which delegations to seat. Because the General Assembly year after year had declined to seat the PRC, it is impossible to assert a PRC right of representation before Resolution 2758 was adopted. As for "the representatives of Chiang Kai-shek", it was the Republic of China as a government, and not Chiang Kai-shek or any other leader, which became a founding member of the United Nations and had signed the Charter at the San Francisco conference in 1945.

Following the adoption of Resolution 2758, the then Secretary General of the United Nations, Kurt Waldheim, circularized the various UN organs and the specialized and technical agencies suggesting that they follow the example of the General Assembly. He cited General Assembly Resolution 396 of 1950 which recommends that whenever more than one authority claims to be the government entitled to UN representation, other UN bodies should take into account the decision of the General Assembly in deciding which delegation to seat within its halls. The operative word here is "recommends", because the General Assembly cannot instruct other UN bodies. Ironically, Resolution 396 was sponsored in 1950 by the Republic of China and the United States in order to keep PRC delegations from being seated by the technical and specialized agencies.

Within in a few years, with the PRC pressing very hard, all the UN affiliated bodies had expelled the ROC representatives. The international financial institutions, the World Bank and the International Monetary Fund, were the last to do so. ROC representatives left those institutions in 1980, after the United States itself had shifted recognition from Taipei to Beijing, and ceased to oppose ROC expulsion.

### Who Represents What?

In 1971, when the General Assembly debated the Chinese representation question, just as in years previous, the government in Beijing and the government in Taipei each claimed to be the sole legal government of all of China, including Taiwan and associated islands as well as the mainland provinces. In adopting Resolution 2758, the General Assembly rejected Taipei's claim and decided that only Beijing's representatives could properly occupy China's seat. The solution offered by the American dual representation resolution -- to seat both delegations pending some future unification of China -- was never considered.<sup>5</sup>

Today the situation is rather different. The ROC long ago abandoned the practice of immediately breaking relations with countries which recognize the PRC, and instead will accept recognition as the government of the territory under its control. It even will accept consular recognition or, if all else fails, it will settle for trade and other substantive but unofficial relations.

In March 1989, at a press conference given during an unofficial visit to Singapore, ROC President Lee Teng-hui, answering a Danish correspondent's question, had this to say about dual recognition:

"The question of dual recognition is not our problem. It's a question for the other side [i.e., the recognizing country] to decide. It is their business whether or not to recognize all countries. After the UN recognized the Chinese Communists, all UN reports omitted the ROC from the publications. Under this situation can I move forward to recognition? I would be happy if I could. [emphasis added]"<sup>6</sup>

Lee's words were translated into action soon thereafter. The Caribbean island nation, Grenada, established formal diplomatic relations with the ROC on July 17, 1989. Grenada at the time had equally formal diplomatic relations with the PRC.

Essentially, the ROC position is to request and accept diplomatic recognition either without any specification or as the government legitimately in control of its present territory, Taiwan and the associated islands, without asserting any claim as to being the legal sovereign on the mainland. As President Lee Teng-hui has said on several occasions since that 1989 press conference, "We should have the courage to face the reality that we are unable for the time being to exercise effective jurisdiction on the mainland." The current official position of the ROC may be summarized in the phrase, "One country, two governments." The precedents usually cited are the present situation of North and South Korea, and the former situation of East and West Germany.

The PRC does not show similar flexibility. It severed diplomatic relations with Grenada on August 8, 1989, three weeks

after Grenada recognized the ROC. It continues to insist that it alone is the sole legitimate government of all of China, and that all of China includes Taiwan, Penghu, Chinmen, Matsu, etc., as well as Spratly and the Paracel Islands. It no longer refers to the Taipei government as "the Chiang Kai-shek clique", but instead as "a provincial authority", or as "a regional economic entity".<sup>3</sup> Beijing will not tolerate use of the name Republic of China, but it has acquiesced in continuing ROC membership in the Asian Development Bank as "Taipei, China".<sup>3</sup>

Interestingly enough, there is one international body which, without PRC objection, has maintained a dual representation policy. In the International Council of Scientific Unions, an umbrella non-governmental organization covering some twenty international scientific unions, "China" is designated as the member country and representation is shared by the China Association for Science and Technology (Beijing) and the Academy of Sciences (Taipei).<sup>4</sup>

### Is the ROC a Sovereign State?

Whether it is or is not to be considered the successor in law of the Republic of China established on the mainland in 1911, incontestably that government has ruled on Taiwan and associated islands for almost fifty years. That fifty years is a longer time period than most members of the United Nations have enjoyed independent existence. When this paper was written, there were 184 members of the United Nations including the latest to join, Andorra with a population of 50,000. The ROC has a population of 20,800,000. Andorra would fit in one of Taipei city's wards with room left over for another minstate of the same size. Taiwan ranks number 14 in world trade, and number one in foreign exchange reserves. But Andorra is a member, the ROC is not. Go figure.

Most Americans like most people throughout the world, take a solipsistic view of international relations: If their country does not recognize Country X, why then Country X has no sovereign existence. This is reminiscent of Bishop Berkeley's hypothesis that a tree which crashes to the forest ground makes no sound unless there is someone present to hear it. But in fact in international law, as codified in Article 3 of the Montevideo Convention on the Rights and Duties of States, it is stipulated that the existence of a government or a State, and the validity of its acts, are totally independent of whether or not it is recognized by other states.

What then is a state? According to The Restatement of the Law of Foreign Relations of the United States, as well as other recognized compendia of international law, "a state is an entity which has a defined territory and a permanent population under the control of a government that engages in or has the capacity to engage in formal relations with other such entities." The ROC, which is recognized formally by 29 countries, which has commercial

and cultural relations with over 100 more, and which is a member of international institutions such as the Asian Development Bank, obviously meets these criteria today just as much as it did on December 31, 1978, the day before the US withdrew diplomatic recognition. Termination of diplomatic relations by the US or anyone else can affect only the type and style of the US-ROC relationship.<sup>12</sup> Just as US non-recognition of Castro's Cuba does not affect Cuba's status as a sovereign state, so the same is true of the ROC.

#### Who Represents the ROC?

If the ROC indeed is a sovereign state, can it be represented in international bodies by some other government, as it were against its will? The answer is clearly No. The government of New Zealand may represent the Cook Islands in the UN because (a) the Cook Island government does not claim an independent, sovereign existence and (b) has agreed that it should be represented in the UN in just this manner. The United Kingdom may do the same with respect to Gibraltar. But these obviously are cases far different from the PRC claim that for all UN purposes it and it alone is competent to represent the 20.8 million people who live on Taiwan and associated islands. Note that 20.8 million is a population larger than two-thirds of the members of the United Nations<sup>13</sup>. The fact is, whether the government of the Republic of China holds to the eventual goal of reunification or not, it is just as entitled to have its own representatives in international bodies as are the Republic of Korea and the Democratic People's Republic of Korea; as were the German Democratic Republic and the Federal Republic of Germany.

#### The Road Back

While these legal arguments are interesting, the United Nations is not a court of law and not a gathering of the world's wisest councilors who meet to ponder problems on the basis of pure rationality. Instead it is a highly politicized institution. The General Assembly is, as the name tells us, a legislature. It operates as any legislature does -- by log-rolling and alliances of convenience. Action in the Assembly is mediated by regional and other groupings which play the role taken by political parties in national parliaments. The most important "political parties" in the UN are regional clubs (like the Organization of African Unity and the Organization of American States), and economic interest formations (like the Group of 77 and the Non-Aligned Movement). If the ROC is to overcome the PRC strategy of international isolation, it will have to learn to play UN politics in order to assemble a core group of supporters within the General Assembly. Surely the PRC will do its utmost to maintain the wall of separation between the ROC and the UN. But there are ways to work around that wall.

It was noted earlier that General Assembly decisions on

representation are advisory only and are not binding on the technical and specialized agencies where the bulk of the United Nations' daily work is carried on. Moreover, there are a large number of intergovernmental bodies that are linked to but are not a formal part of the UN system. Some are commodity groups of no intrinsic interest to Taiwan. But the International Sugar Organization and the International Tropical Timber Organization are just two of a number of bodies that deal with subject matters directly relevant to Taiwan's economy -- and they happen to be linked to the UN Conference on Trade and Development (UNCTAD), a standing body under the UN Economic and Social Council, which itself is one of the UN's major organs. Therefore, joining such organizations becomes a back door to association with UNCTAD. Bodies like these are non-political. They deal with economic subject matters and try very hard to avoid political issues. The sugar producers and the tropical timber countries almost without exception are members of "the third world." Because the Taiwan economy and Taiwan's trade loom so large with respect to trade in these commodities, it would be hard to sustain the argument that the ROC has no place in such organizations.

This is even more true of the World Bank and the International Monetary Fund. It would be highly advisable, indeed a logical next step for the ROC to begin a campaign to rejoin the Bank and Fund after full accession to the GATT. And it would be difficult for the Bank and Fund to refuse membership to the country which holds the world's largest foreign exchange reserves.<sup>14</sup>

There are possibilities in the UN technical and specialized agencies as well.

The World Health Organization is one of several UN bodies which, in practice, do not restrict membership to states. Non-UN members like Switzerland, and non-states like Hong Kong, belong to or work with WHO, just as they do with many other UN bodies. Under WHO there are a number of special disease research, prevention and control sub-bodies, for example the Special Program for Research and Training in Tropical Diseases (TDR). TDR hosts international conferences and conducts programs in Latin America, Africa, Asia and the South Pacific. It accepts donations to establish specific purpose funds. For example a fund to provide for spraying mosquitos in countries where malaria is a serious problem. It usually names the fund after the donor country and invites the donor country to nominate people to help administer the fund and oversee its work.

Obviously the PRC would react with maximum hostility were the ROC to try this approach. It would do what it could to prevent acceptance of such a donation. But aside from its Security Council seat and veto, Beijing is not a major player in the UN. It adopts a very low profile in the General Assembly, and is hardly visible at all in the technical and specialized agencies. The entire UN

contribution of the PRC in 1991 amounted only to \$7.83 million.

Let us imagine the following hypothetical case. Taiwan approaches the UN Children's Emergency Fund and offers to donate \$2.5 million annually for the next five years to establish a program to vaccinate Third World children against measles. As the donor, it would like to have some involvement in the program but does seek not control. In such a case, every yelp of protest from Beijing would make friends for Taiwan and enemies for the PRC.

Working in this way on a multiplicity of fronts, and over a period of years, it would be possible for the ROC to establish a pattern of steady and growing interaction in key parts of the UN system. Within a few years ROC representatives would be welcomed at a wide variety of international meetings and conferences.

Nor is this just "make work" for otherwise unemployed diplomats. The World Health Organization has eliminated smallpox from the planet. UNICEF assists poor children around the world. It is the World Intellectual Property Organization that registers patents internationally. It is the International Civil Aviation Organization that regulates international air traffic. These are only a few of a great many examples that could be cited. It is within the specialized and technical agencies that the world's work is done.

#### Back to the General Assembly

At the end of this process, after the ROC has rejoined the Bank and Fund, after it has established itself as a respected collaborator in the world of the specialized and technical agencies and built a solid base of support in the Third World, the General Assembly itself can be tackled. How? The General Assembly is the master of its own rules and procedures, including the seating of delegations. That is why the question of whether to seat the representatives of both the ROC and the PRC, or only one of them, came each year to the General Assembly and not the Security Council.

Resolutions adopted by one Assembly can be reconsidered by a subsequent Assembly and amended or rescinded by a two-thirds majority -- the same majority needed to admit a new member. In just such a way, the infamous "Zionism equals racism" resolution was rescinded by the General Assembly at its 1991 session.

Most UN members are small and poor. The great powers may worry about the PRC using its Security Council veto against some pet project of their own. But the small and poor worry about childhood diseases, about next year's food crop, about general economic development. Few or none have any recollection of the great Chinese representation battles of the 1950s, 60s and 70s. They have little to fear from Beijing's displeasure. If Taiwan

assists them in their key concerns, they will assist Taiwan in return.

There is of course ample precedent for seating two Chinese delegations. In the past the General Assembly seated two German delegations. Today it includes two Korean delegations. The issue is a political one, not a legal one. What the General Assembly decides by a two-thirds majority to do, will be done.

Obviously the path requires careful preparation and circumspect work over a period of years. It will require monetary donations to UN work, but the total cost would be less than the ROC has spent in the past in "loans" to the dictators of mini-states. And by by-passing the Security Council, the danger of the PRC veto is obviated.

It is a path the ROC can and should take.

#### The Broader Context: Who Needs the UN, and Why?

The ROC in some degree is still in search of an identity. Many who live there reject completely the approach sketched out here, because that would imply seeking restoration of a seat for the Republic of China. They would greatly prefer an immediate declaration that an independent "Republic of Taiwan" has come into being, and application as a new member under that name. Most who advocate this course understand that, because new members must be recommended by the Security Council to the General Assembly, such an application would be vetoed by the PRC. But, they argue, each application, whether vetoed or not, establishes for the record that there is an independent Taiwan, and it is this, rather than UN membership, which is their principal goal.

In addition to those who want formal separation now, a smaller group -- and not just the 15% of the population who count as "mainlanders" -- holds to the goal of reunification within a democratic China at some distant time. Given an absolutely free choice, with no possibility of military intervention or adverse pressure from Beijing, a much larger group -- probably a majority -- would be happy to declare that they are, and of right ought to be, a free and independent State.

The argument has been made that UN membership would protect the right of self-determination of Taiwan's people, insuring that they will continue to have the ability to decide their future for themselves, free of coercion. Prior to the past two years' horrors in Bosnia, which is a UN member, one might have believed that to be true. But now ethnic cleansing and related atrocities in Bosnia make plain that being a UN member is not in itself sufficient protection from outside aggression. In Taiwan's case, where the only potential aggressor is the PRC, protection lies not with the UN, but with the sixty-mile wide Taiwan Strait, with the ROC's



continuing ability to mount a hedgehog-like defense that would take a heavy toll on the attacking force, and above all with the possibility that the US, under the terms of the Taiwan Relations Act, would come to Taiwan's aid. Section 2(b)(6) of the Taiwan Relations Act (PL 96-8) states: "It is the policy of the United States....to consider any effort to determine the future of Taiwan by other than peaceful means, including by boycotts or embargoes, a threat to the peace and security of the Western Pacific and of grave concern to the United States." Section 3(c) states: "The President is directed to inform the Congress promptly of any threat to the security or the social or economic system of the people on Taiwan and any danger to the interests of the United States arising therefrom."

In an earlier paper, I argued: "Three things deter the PRC from taking military action: (1) their military inadequacy; (2) the ability of the ROC military to put up a lengthy and determined fight; (3) the fact that Peking's leadership can never be certain that the United States will not intervene militarily and decisively."

Since that paper was written (1991), the PRC has improved its military capabilities through arms purchases from Russia and other constituents of the former Soviet Union. Taiwan is upgrading its own order of battle with the purchase of fighter aircraft from the US and France. What has not changed, however, is the uncertainty factor, and this will continue to restrain Beijing.

But if this is so, why should Taiwan be concerned about the UN? Some on the island see this as a matter primarily of status or "face." They want to be recognized as citizens of a "real country." They want to bear a passport that does not induce fishy-eyed stares from immigration officials elsewhere. They want to have embassies and other offices abroad that provide the same services other receive. They want to be citizens of a state whose political influence comes closer to matching its economic muscle. The imprimatur of UN membership, they feel, will bring those benefits.

In this, of course, they are right. Being citizens of a pariah state is no fun. But there are even more important reasons why the ROC should want to be a UN member, and why the UN system should want to include the ROC. For the UN is not just the General Assembly with its endless hortatory resolutions, or the Security Council. It is above all the constellation of technical, specialized and financial agencies that regularize or make rules for the world's telecommunications, postal system, commodity trade, civil aviation, peaceful uses of atomic energy; which attempt to protect health, provide technical and financial assistance, assist poor children, investigate abuses of human rights, try to prevent genital mutilation of young girls, regulate seabed mining, propose regimes to protect the environment, develop and distribute better

seed and plant strains for food and textile crops, argue over rules of the road for multinational corporations, vaccinate babies, house and feed refugee populations, and provide assistance to developing countries.

This is how and where the world's work is done. Clearly it is important to the ROC to be part of such an organization. Just as clearly, the UN can benefit from the membership and contributions of a country which itself has gone from poverty to wealth in the space of forty years.

1. Both quotations taken from The Free China Journal, July 30, 1993.
2. Ibid.
3. Private communication from Lu Hsiu-lien to the author.
4. Resolution 2758 reads as follows:

The General Assembly,  
Recalling the principles of the Charter of the United Nations,

Considering that the restoration of the lawful rights of the People's Republic of China is essential both for the protection of the Charter of the United Nations and for the cause that the United Nations must serve under the Charter,

Recognizing that the representatives of the People's Republic of China are the only lawful representatives of China to the United Nations and the People's Republic of China is one of the five permanent members of the Security Council,

Decided to restore all its rights to the People's Republic of China and to recognize the representatives of its government as the only legitimate representatives of China to the United Nations, and to expel forthwith the representatives of Chiang Kai-shek from the place which they unlawfully occupy at the United Nations and all the organizations related to it.

The author of this paper, in his then capacity as officer-in-charge of a special task force within the U.S. State Department on the question of Chinese representation in the UN, had drafted the dual representation resolution which was not offered.

5. Later, the dual representation resolution served as a model for the resolution seating the delegations of North and South Korea.
6. Text in United Daily News of Taipei, March 10, 1989, page 4.
7. See, for example, the Kaohsiung newspaper The Masses Daily, June 4, 1989.

8. Interestingly, the PRC has not broken relations with Latvia despite the fact that the Latvian government has allowed the ROC to establish a Consulate. This is an indication that when political conditions dictate, the PRC is prepared to be flexible. So far, however, no other countries have followed Latvia's example.

9. But the ROC remains a full member with independent voting rights and can continue to use the name "Republic of China" in official correspondence with the ADB. In its replies, the ADB uses the name "Taipei, China." This curious minuet demonstrates once again that norms are what you make them.

10. See Byron S.J. Weng, "Divided China and the Question of Membership in International Economic Organizations", in Yun-han Chu (ed.) The Role of Taiwan in International Economic Organizations, Taipei, Institute for International Policy Research, 1990, p.41.

11. The Restatement of the Law of the Foreign Relations of the United States, 3rd ed., Vol.1, St. Paul MN: American Law Institute, 1987, p.72. The Restatement embodies the consensus of American lawyers practicing international law.

12. In fact US-ROC relations remain far more complex than do US relations with most other countries. For example, the Taiwan Relations Act (PL96-8) provides that "the laws of the United States shall apply to Taiwan in the manner that the laws of the United States applied with respect to Taiwan prior to January 1, 1979" (Section 4(a)). Which is to say that de-recognition did not in any way change ROC status in terms of US law. The US sells arms to Taiwan as well as nuclear fuel for Taiwan's power reactors. US law specifies that such sales can be made only on a government-to-government basis.

13. See The Economist Book of Vital World Statistics, Random House, New York, 1991, p.18f.

14. Although Beijing claims the right to represent Taiwan in world bodies, it has not had the audacity to argue that the ROC's foreign exchange reserves belong to the PRC -- another example of the ROC's separate and sovereign existence.



Excerpt from "The Growth and Accomplishments of the Republic of China on Taiwan:  
President Lee Teng-hui's Answers to Questions Submitted by Presidents & Prime  
Minister Magazine

**How will ROC's UN membership benefit the international community and the Republic of China? Please mention short-term and long-term benefits.**

UN membership for the Republic of China would have the following benefits both for the ROC and for the United Nations:

1. UN membership would allow the people and the government of the Republic of China to enjoy a fair and reasonable international status and would lead to greater respect for our rights and interests. As the Republic of China is excluded from the United Nations framework, the 21 million people in the Taiwan, Penghu, Kinmen, and Matsu area under our jurisdiction have been seriously undermined in their fundamental rights to participate in international, political, economic, and cultural activities. For instance, we observe UN-related treaties, but we often face the threat of

sanctions simply because we are not a signatory of these treaties. What is worse, we have no appropriate channels for expressing our views. This is not only unfair to us, but also immoral. I am certain that once we are in the United Nations, the rights of ROC citizens can be better guaranteed because our status as an international entity will be recognized and respected.

2. UN membership would allow the Republic of China to contribute more to the international community and assist in the development of other nations. The Republic of China began to provide foreign aid long ago. In recent years, we have broadened the scope of our assistance. Yet, because the ROC is not a member of the UN, we are often prevented from realizing our good intentions. It is also difficult for us to actively contribute to global issues such as environmental protection....In addition, if the ROC's successful development experience could be included within the United Nations' framework, it could serve as a reference for other countries and effectively promote international economic cooperation.

3. UN membership for the ROC would be indirectly conducive to the peaceful resolution of the question of Chinese reunification....Prior to China's unification, the fundamental rights and interests of the 21 million people under the jurisdiction of the ROC government cannot be overlooked. The cases of North and South Korea and East and West Germany have proved that the inclusion of a divided country in the United Nations does not hinder its eventual unification. Accordingly, if the ROC could participate in the United Nations, it would have a positive meaning for the peaceful resolution of the China question and would benefit the peace and stability of the Asian-Pacific region.



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